

Shirk, Georgette L

From: Ruppel, Joanna
Sent: Sunday, January 29, 2017 10:43 AM
To: Nicholson, Maura J
Subject: FW: Executive Order

Seems like we should just say the same at this point . . . I can ask Lori if that is OK.

Joanna Ruppel
Acting Associate Director
USCIS Refugee, Asylum and International Operations

(b)(6)

From: Renaud, Daniel M
Sent: Sunday, January 29, 2017 11:40 AM
To: Levine, Laurence D; Groom, Molly M; Neufeld, Donald W; Walters, Jessica S
Cc: Ruppel, Joanna; Young, Todd P; Slattery, Shannon E; Valverde, Michael; Walters, Jessica S
Subject: RE: Executive Order

As of right now, we are holding all applications and petitions from led by individuals from the 7 countries. We did let an N-400 ceremony and an N-600 ceremony go forward yesterday.

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Cc: Ruppel, Joanna; Young, Todd P; Slattery, Shannon E; Valverde, Michael; Walters, Jessica S
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Has anything gone out to our field folks at this point about pendings?

Larry Levine
Acting Chief
Office of Policy & Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security

(b)(6)

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To: Levine, Laurence D; Neufeld, Donald W; Walters, Jessica S; Renaud, Daniel M
Cc: Ruppel, Joanna; Young, Todd P; Slattery, Shannon E; Valverde, Michael; Walters, Jessica S
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Trying to get best information.

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Reuters is reporting that the stay covers holders of valid IV and NIVs and arriving refugees

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Subject: RE: Executive Order

I've only seen this on Twitter, but it looks like a judge in EDNY has granted a nationwide stay of the refugee EO. I haven't been able to nail down a copy of the actual order, so I have no actual details. Anyone else hear anything?

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Acting Chief
Office of Policy & Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security

[redacted] (b)(6)

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Sent: Saturday, January 28, 2017 12:54:08 PM
To: Walters, Jessica S; Renaud, Daniel M
Cc: Ruppel, Joanna; Young, Todd P; Slattery, Shannon E; Valverde, Michael; Levine, Laurence D; Groom, Molly M; Walters, Jessica S
Subject: RE: Executive Order

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From: Walters, Jessica S
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To: Renaud, Daniel M
Cc: Neufeld, Donald W; Ruppel, Joanna; Young, Todd P; Slattery, Shannon E; Valverde, Michael; Levine, Laurence D; Groom, Molly M; Walters, Jessica S
Subject: RE: Executive Order

Thanks very much.

Jessica S. Walters
Senior Advisor
Office of the USCIS Deputy Director
U.S. Citizenship and Immigration Services

[redacted] (b)(6)

From: Renaud, Daniel M
Sent: Saturday, January 28, 2017 11:34:16 AM
To: Walters, Jessica S
Cc: Neufeld, Donald W; Ruppel, Joanna; Young, Todd P; Slattery, Shannon E; Valverde, Michael; Levine, Laurence D; Groom, Molly M
Subject: FW: Executive Order

FOD will be using the attached matrix to help identify questions and track implementation timelines. You may find it useful as well as we identify questions, develop guidance, and implementation plans.

Daniel M. Renaud
Associate Director | Field Operations Directorate
U.S. Citizenship and Immigration Services
Department of Homeland Security

From: Slattery, Shannon E
Sent: Saturday, January 28, 2017 12:16:07 PM
To: Valverde, Michael; Renaud, Daniel M
Cc: Farnam, Julie E; Kvortek, Lisette E
Subject: RE: Executive Order

The attached document is a matrix breaking down the EO into its component parts and action items. I've added columns for QAs and started compiling those I saw come across this morning and some early ones I saw from Div. I.

The Policy and general objectives language at the beginning pulls key language from the EO for quick reference when we're drafting statements. The date conversion chart indicates the calendar dates associated with any specific timeframe mentioned in the EO.

I am working to convert this to Excel over the weekend so it's a little more scalable, but wanted to pass it on for initial use.

Please let me know if you have any questions or see anything that needs editing.

Thanks,

Shannon E. Slattery
Field Operations Directorate | U.S. Citizenship and Immigration Services

(b)(6)

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From: Valverde, Michael
Sent: Saturday, January 28, 2017 11:42 AM
To: Renaud, Daniel M; Kvortek, Lisette E
Cc: Farnam, Julie E; Slattery, Shannon E
Subject: RE: Executive Order

For section 4, do we need to take any actions prior to the "plan" described in section four being developed and implemented? And who is responsible for developing the plan?

For section 6, should we adjudicate cases in TRIG hold? It doesn't seem like exemptions are forthcoming.

Michael Valverde
DHS USCIS
Field Operations Directorate, Deputy Associate Director

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To: Kvortek, Lisette E
Cc: Valverde, Michael; Farnam, Julie E; Slattery, Shannon E
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1. Are the following forms impacted: N-400s, N-336, I-601A, I-131, I-765, N-565, I-130, ...?
2. Should we deschedule oath ceremonies for individuals from the 7?
3. How do we handle N-400s 120+ days from interview?
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Daniel M. Renaud
Associate Director | Field Operations Directorate
U.S. Citizenship and Immigration Services
Department of Homeland Security

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Sent: Saturday, January 28, 2017 11:21:12 AM
To: Ruppel, Joanna; Neufeld, Donald W; Scialabba, Lori L; Renaud, Daniel M; Strack, Barbara L; Davidson, Andrew J; Emrich, Matthew D
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Subject: RE: Executive Order

Everyone should be compiling a list of all of their questions and getting them to Jess so Lori and I have a complete list. If there are URGENT questions that we need answers to before Monday go ahead and flag those for us but I'm not sure the Department is going to get to us immediately, they are likely dealing with issues at the POEs which have a bit more urgency. I did send the question of whether this impact naturalization or not to the Department in an attempt to get an answer this weekend only because we have oath ceremonies scheduled for Monday.

Tracy L. Renaud
Acting Deputy Director
US Citizenship & Immigration Services
Department of Homeland Security

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Sent: Saturday, January 28, 2017 9:54 AM
To: Neufeld, Donald W; Scialabba, Lori L; Renaud, Daniel M; Higgins, Jennifer; Strack, Barbara L; Davidson, Andrew J; Emrich, Matthew D
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We are working on further guidance and of course will coordinate with SCOP.

State has also issued guidance. Will forward.

Joanna

Joanna Ruppel
Chief, International Operations Division
U.S. Citizenship and Immigration Services

(b)(6)

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And, in the meantime can I get something to the centers this weekend? I can share a draft email tomorrow.

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Cc: Renaud, Tracy L; McCament, James W
Subject: RE: Executive Order
O.K. Take Jennifer off the email chains. Don, I want one document with all your issues. Same goes for Dan, Joanna/Barbara and

Matt/Andrew. We'll start regular meetings next week.

Lori

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Sent: Friday, January 27, 2017 8:00 PM
To: Scialabba, Lori L; Renaud, Daniel M; Higgins, Jennifer
Cc: Renaud, Tracy L; McCament, James W
Subject: RE: Executive Order

For clarity, what would be suspended are I-485s, I-539s, I-129s and I-131s. If I'm missing something please let me know.

From: Neufeld, Donald W
Sent: Friday, January 27, 2017 7:56:01 PM
To: Scialabba, Lori L; Renaud, Daniel M; Higgins, Jennifer
Cc: Renaud, Tracy L; McCament, James W
Subject: RE: Executive Order

I can get word out over the weekend to the centers to suspend processing. I just need the list of 7 countries to include in my message. The Directors are already on notice of the possibility. I would exclude from the suspension any petitions for beneficiaries abroad and TPS/DACA.

From: Scialabba, Lori L
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To: Neufeld, Donald W; Renaud, Daniel M; Higgins, Jennifer
Cc: Renaud, Tracy L
Subject: RE: Executive Order

I think the answer to the first two is yes they are impacted for the 7 countries identified. Not sure about petitions for beneficiaries abroad. I'll ask.

From: Neufeld, Donald W
Sent: Friday, January 27, 2017 7:26 PM
To: Scialabba, Lori L; Renaud, Daniel M; Higgins, Jennifer
Cc: Renaud, Tracy L
Subject: RE: Executive Order

Thanks for sending this, Lori.

As we've discussed, the most urgent question is whether adjustments and extensions or changes of nonimmigrant status are impacted. Separately, is there any impact on petitions for beneficiaries abroad since we would not be determining admissibility? I would think not, but it would be good to have clarity.

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Sent: Friday, January 27, 2017 5:59:36 PM
To: Renaud, Daniel M; Higgins, Jennifer
Cc: Renaud, Tracy L; Neufeld, Donald W
Subject: RE: Executive Order

I think that's o.k. and going forward don't schedule these for interviews.

From: Renaud, Daniel M
Sent: Friday, January 27, 2017 5:47 PM
To: Scialabba, Lori L; Higgins, Jennifer
Cc: Renaud, Tracy L; Neufeld, Donald W
Subject: RE: Executive Order

If we can define "suspend processing" as "suspend prior to approval", then one option would be to continue with the interviews, since it is likely we have some that are scheduled as soon as Monday for affected applicants and then hold the cases post interview. We are trying to scrape our schedulers (C4 and NASS) to see when and where we have interviews scheduled for individuals from affected countries. We should have that sometime Monday.

Daniel M. Renaud
Associate Director, Field Operations Directorate
Department of Homeland Security | U.S. Citizenship and Immigration Services

From: Scialabba, Lori L
Sent: Friday, January 27, 2017 12:43 PM
To: Higgins, Jennifer
Cc: Renaud, Tracy L; Neufeld, Donald W; Renaud, Daniel M
Subject: FW: Executive Order

(b)(5)

FYI. I think Andrew might be right in terms of what is meant but [redacted]

From: Davidson, Andrew J
Sent: Friday, January 27, 2017 12:37 PM
To: Renaud, Tracy L
Cc: Neufeld, Donald W; Renaud, Daniel M; Scialabba, Lori L
Subject: Executive Order

Tracy,

It is my understanding that POTUS will sign the "Protecting the Nation from Terrorist Attacks by Foreign Nationals" order today at 4:30pm. In complying with the EA I believe we need immediate clarification in Section 3 (c) relative to the 30 day suspension of processing immigrants and non-immigrants from the designated countries of interest and if this extends to processing of permanent resident applications. Though the EA states "immigrant and non-immigrant entry into the United States", once we grant an adjustment we "admit" that person [redacted] (b)(5)

We just need to clarify if by extension this applies to our product lines. If this is the case then Don and Dan will need to get guidance to the Field to put these adjudications on hold. Other than the refugee suspension that appears fully deployed on our end this appears the most urgent clarification we need relative to the EAs.

Thanks,

Andrew Davidson
Acting Deputy Associate Director
Fraud Detection and National Security Directorate
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security
111 Massachusetts Avenue, NW
Washington, DC 20529

[redacted] (b)(6)

Shirk, Georgette L

From: Ruppel, Joanna
Sent: Sunday, January 29, 2017 11:18 AM
To: Groom, Molly M; Lafferty, John L; Zengotitabengoa, Colleen R
Subject: RE: Executive Order

No one. We just need confirmation, as was done for natz.

Joanna

Joanna Ruppel
Acting Associate Director
USCIS Refugee, Asylum and International Operations

[redacted] (b)(6)

From: Groom, Molly M
Sent: Sunday, January 29, 2017 12:09 PM
To: Ruppel, Joanna; Lafferty, John L; Zengotitabengoa, Colleen R
Subject: RE: Executive Order

Who's suggesting otherwise? I didn't see this in the questions to OPA. Seems absolutely clear to me—same as natz

From: Ruppel, Joanna
Sent: Sunday, January 29, 2017 11:57 AM
To: Groom, Molly M; Lafferty, John L; Zengotitabengoa, Colleen R
Subject: RE: Executive Order

We need confirmation from the Department on that. If you can assist through discussions with OGC, would be wonderful.

Joanna

Joanna Ruppel
Acting Associate Director
USCIS Refugee, Asylum and International Operations

[redacted] (b)(6)

From: Groom, Molly M
Sent: Sunday, January 29, 2017 11:56 AM
To: Ruppel, Joanna; Lafferty, John L; Zengotitabengoa, Colleen R
Subject: RE: Executive Order

I don't understand how asylum would be affected by the EO. If they tell you otherwise, please let me know.

From: Ruppel, Joanna
Sent: Sunday, January 29, 2017 11:54 AM
To: Neufeld, Donald W; Renaud, Daniel M; Levine, Laurence D; Groom, Molly M; Walters, Jessica S
Cc: Young, Todd P; Slattery, Shannon E; Valverde, Michael; Walters, Jessica S; Lafferty, John L; Strack, Barbara L; Stone,

Mary M; Nicholson, Maura J
Subject: RE: Executive Order

Asylum has notified field leadership that they should arrange to stop any decision-issuance to asylum applicants from the listed countries until they are instructed otherwise. They also told leadership to review their upcoming schedules and prepare to cancel any interviews for nationals from the listed countries. They were told not to actually begin cancelling the interviews until they received further guidance from HQ.

IO is working with front office on guidance for international staff and ongoing refugee interviews. We have greenlight for refugee interviews in Vienna to continue tomorrow.

Joanna

Joanna Ruppel
Acting Associate Director
USCIS Refugee, Asylum and International Operations

[redacted] (b)(6)

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Cc: Ruppel, Joanna; Young, Todd P; Slattery, Shannon E; Valverde, Michael; Walters, Jessica S
Subject: RE: Executive Order

Same here Larry. We have put a full stop on everything involving the 7 countries at the centers pending further guidance.

From: Renaud, Daniel M
Sent: Sunday, January 29, 2017 11:40:01 AM
To: Levine, Laurence D; Groom, Molly M; Neufeld, Donald W; Walters, Jessica S
Cc: Ruppel, Joanna; Young, Todd P; Slattery, Shannon E; Valverde, Michael; Walters, Jessica S
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Thanks very much.

Jessica S. Walters
Senior Advisor
Office of the USCIS Deputy Director
U.S. Citizenship and Immigration Services

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DHS USCIS
Field Operations Directorate, Deputy Associate Director

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U.S. Citizenship and Immigration Services

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Lori

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Sent: Friday, January 27, 2017 5:59:36 PM

To: Renaud, Daniel M; Higgins, Jennifer

Cc: Renaud, Tracy L; Neufeld, Donald W

Subject: RE: Executive Order
I think that's o.k. and going forward don't schedule these for interviews.

From: Renaud, Daniel M
Sent: Friday, January 27, 2017 5:47 PM
To: Scialabba, Lori L; Higgins, Jennifer
Cc: Renaud, Tracy L; Neufeld, Donald W
Subject: RE: Executive Order

If we can define "suspend processing" as "suspend prior to approval", then one option would be to continue with the interviews, since it is likely we have some that are scheduled as soon as Monday for affected applicants and then hold the cases post interview. We are trying to scrape our schedulers (C4 and NASS) to see when and where we have interviews scheduled for individuals from affected countries. We should have that sometime Monday.

Daniel M. Renaud
Associate Director, Field Operations Directorate
Department of Homeland Security | U.S. Citizenship and Immigration Services

From: Scialabba, Lori L
Sent: Friday, January 27, 2017 12:43 PM
To: Higgins, Jennifer
Cc: Renaud, Tracy L; Neufeld, Donald W; Renaud, Daniel M
Subject: FW: Executive Order

(b)(5)

FYI. I think Andrew might be right in terms of what is meant but [redacted]

From: Davidson, Andrew J
Sent: Friday, January 27, 2017 12:37 PM
To: Renaud, Tracy L
Cc: Neufeld, Donald W; Renaud, Daniel M; Scialabba, Lori L
Subject: Executive Order

Tracy,

It is my understanding that POTUS will sign the "Protecting the Nation from Terrorist Attacks by Foreign Nationals" order today at 4:30pm. In complying with the EA I believe we need immediate clarification in Section 3 (c) relative to the 30 day suspension of processing immigrants and non-immigrants from the designated countries of interest and if this extends to processing of permanent resident applications. Though the EA states "immigrant and non-immigrant entry into the United States", once we grant an adjustment we "admit" that person [redacted]

We just need to clarify if by extension this applies to our product lines. If this is the case then Don and Dan will need to get guidance to the Field to put these adjudications on hold. Other than the refugee suspension that appears fully deployed on our end this appears the most urgent clarification we need relative to the EAs.

(b)(5)

Thanks,

Andrew Davidson
Acting Deputy Associate Director
Fraud Detection and National Security Directorate
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security
111 Massachusetts Avenue, NW
Washington, DC 20529

[redacted] (b)(6)

Shirk, Georgette L

From: Ruppel, Joanna
Sent: Thursday, January 26, 2017 5:06 PM
To: Busch, Philip B
Cc: Groom, Molly M
Subject: RE: Executive Order impacting refugee admissions -- flagging issue

Still processing those in the pipeline. We seem to go through this every year. Have you heard any word of whether it will be revived again as it always has been?

Joanna

Joanna Ruppel
Acting Associate Director
USCIS Refugee, Asylum and International Operations Directorate

[redacted] (b)(6)

From: Busch, Philip B
Sent: Thursday, January 26, 2017 6:02 PM
To: Ruppel, Joanna
Cc: Groom, Molly M
Subject: RE: Executive Order impacting refugee admissions -- flagging issue

Just curious, since Lautenberg has expired what cases are those? Thanks, Phil

From: Ruppel, Joanna
Sent: Thursday, January 26, 2017 5:40:12 PM
To: Scialabba, Lori L; Renaud, Tracy L
Cc: Strack, Barbara L; Stone, Mary M; Nicholson, Maura J; Groom, Molly M; Busch, Philip B; Zengotitabengoa, Colleen R
Subject: Executive Order impacting refugee admissions -- flagging issue

Lori and Tracy,

I just wanted to flag a couple of issues for you related to section (5)(f) of the draft executive order that would temporarily suspend most refugee processing.

(f)(a) provides that notwithstanding the temporary suspension, "the Secretaries of State and Homeland Security may continue to process as refugees those refugee claims made by individuals on the basis of religious-based persecution, provided that the religion of the individual is a minority religion in the individual's country of nationality."

We need to know if this will be interpreted to mean that we can continue interviewing and making decisions on Lautenberg cases in Vienna and Moscow. We currently have a RAD circuit rider in Vienna conducting these interviews, and we interview Lautenberg cases 4 days a week in Moscow.

Also, we will need to know whether to pull back the teams currently in South Africa (circuit ride scheduled to end February 3) and Indonesia (circuit ride scheduled to end February 10). One thing to note is that we are interviewing some Rohingya (religious minority) in Indonesia, so arguably they could fall within the exception.

We will need guidance on this ASAP, assuming the language in the final order remains the same. So flagging this to you as something to possibly flag to the Department.

Thanks,

Joanna

Joanna Ruppel
Acting Associate Director
USCIS Refugee, Asylum and International Operations Directorate

[Redacted] (b)(6)

Shirk, Georgette L

From: Ruppel, Joanna
Sent: Sunday, January 29, 2017 10:52 AM
To: Renaud, Tracy L; Scialabba, Lori L
Cc: Nicholson, Maura J; Strack, Barbara L; Stone, Mary M
Subject: RE: a couple of urgent issues

Importance: High

Sorry. I had missed that. Things are moving quickly and shotgun.

So I think all we are waiting for refugee processing guidance on the following, with the most urgent one being South Africa so we can get PRM to start cancelling the interviews and the other locations, so staff know what to do while we sleep tonight (I have included our recommended course of action here):

2. Can we continue interviewing in Indonesia? We recommend that we continue, based on consultations with our APAC leadership and PRM.

They are almost all Rohingya, with just five Afghan refugees (and there are concerned about cancelling only for Afghan and how to message that). The Rohingya transferred from Aceh to Medan for interview are from the 2015 Migrant at Sea Crisis who Indonesia allowed to disembark only after we committed to considering them for resettlement. The Govt of Indonesia allowed them, after much lobbying by Embassy Jakarta , to be transferred to Medan for USRAP processing under the condition that the process be completed in 6 months or they would be transferred back to Aceh. So the clock is ticking and it would be problematic if their continued processing and eventual departure is delayed for 120 days and they be transferred back to poor living conditions in Aceh and away from areas where we can access the refugees.

3. Should we continue interviews in South Africa? We think it would not be the best use of resources to continue to interview this population and intend to move forward to curtail those interviews. We recommend that we do NOT continue interviews.

4. Should we continue interviews in Moscow? We have Lautenberg interviews scheduled in Moscow all week. This includes P1s and Lautenberg (largely Ukrainian religious minorities traveling in from the Ukraine for their interviews). Some of the P-1s travel in from remote areas. Our proposed plan:

Where someone may already be in transit, we intend to continue with the interview if the individual was a Lautenberg or other religious minority, even though we are all still awaiting guidance on how the religious minority exception may be defined. For those other P1s, we intend to collect prints and inform them of the suspension, but not conduct an interview. We don't want to continue interviewing if we may have to do reinterviews later based on a new or amended approach to processing.

5. We believe we have P-1s also scheduled in New Delhi. Would follow same approach as above.

For reference - current circuit rides:

1. Cape Town, South Africa (total number of cases is 166) – deployed through February 3:
 - a. 92% nationality is Somali – Claims are mostly based on religious beliefs (different interpretations of Islam than Al Shabaab)
 - b. 8% nationality is Democratic Republic of Congo – Claims are nationality claims based on tribe.

2. Indonesia (total number of cases is 130) – deployed through February 10:
 - a. 95% nationality is Burmese – religious minority Rohingya population
 - b. 5% nationality is Afghan – No claim info available
3. Vienna (RAD CR – one officer is currently onsite processing cases) – deployed through February 24:
 - a. 100% from Iran – claims are religious persecution as either Assyrian/Armenian Christians or Bahai
 - b. Note that these cases must obtain special visas to enter Austria and can only remain in Vienna for a very limited amount of time.

Joanna

Joanna Ruppel
Acting Associate Director
USCIS Refugee, Asylum and International Operations

(b)(6)

From: Renaud, Tracy L
Sent: Sunday, January 29, 2017 11:44 AM
To: Ruppel, Joanna; Scialabba, Lori L
Cc: Nicholson, Maura J; Strack, Barbara L; Stone, Mary M
Subject: RE: a couple of urgent issues

Joanna,

Lori already said to continue with the Vienna interviews.

Tracy L. Renaud
Acting Deputy Director
US Citizenship & Immigration Services
Department of Homeland Security

(b)(6)

From: Ruppel, Joanna
Sent: Sunday, January 29, 2017 11:25:21 AM
To: Scialabba, Lori L; Renaud, Tracy L
Cc: Nicholson, Maura J; Strack, Barbara L; Stone, Mary M
Subject: a couple of urgent issues

Lori and Tracy,

I know you get a ton of emails, so per the exchange I just had with Lori, below is the list of questions I sent last night, and again please note that it would be wonderful if we could get answers today. Our staff in Asia will begin working our Sunday evening and staff in EMEA while we sleep tonight (if we sleep tonight). Amman is working today, so we already got some guidance out to them. Most urgently we need to know ASAP whether we can cancel the interviews in Cape Town tomorrow and for the rest of the circuit ride. 92% of the cases are Somali. We do not believe that it is in the interest of the USG to interview them at this time, given that the protocols are going to change.

Also need to know about Vienna (I know you have had exchanges with Barbara on this, as well) and Moscow for Monday interviews.

We also need to know whether we should hold off issuing any boarding letters to LPRs from the identified countries, based on lost/stolen green cards.

If you can provide guidance before the 5:00 call, that would be great. If not, we hope we can get that info then.

If it would help to have a quick chat about this, please let me know.

Thanks,

Joanna

Urgent time-sensitive questions (need answers by Sunday evening, if possible):

1. Can the officer in Vienna resume interview on Monday? In light of the "notwithstanding" language at Sec. 5(e), we propose that he continue w/interviews as planned.

In particular, that section says that the USRAP can use discretion to admit refugees during the 120-day suspension "when admitting the person would enable the United States to conform its conduct to a preexisting international agreement..." We have such an agreement w/Austria. What we are proposing is not actually ADMISSIONS, however, but continuing w/RAD interviews, which seems in keeping with the intent and spirit of this provision. Since these applicants are Iranian religious minorities, we believe that their future admission would need to be assessed under the 90-day rule in Sec. 3.

2. Can we continue interviewing in Indonesia? We recommend that we continue, at least for the Rohingya population. PRM's guidance to RSC's is to continue processing around the world and just to cancel travel for the affected population, and we are working with them on determining best course of action for this caseload.
3. Should we continue interviews in South Africa? We think it would not be the best use of resources to continue to interview this population and intend to move forward to curtail those interviews. We are consulting with PRM.
4. Should we continue interviews in Moscow? We have Lautenberg interviews scheduled in Moscow all week. This includes P1s and Lautenberg (largely Ukrainian religious minorities traveling in from the Ukraine for their interviews). Some of the P-1s travel in from remote areas. Our proposed plan:

Where someone may already be in transit, we intend to continue with the interview if the individual was a Lautenberg or other religious minority, even though we are all still awaiting guidance on how the religious minority exception may be defined. For those other P1s, we intend to collect prints and inform them of the suspension, but not conduct an interview. We don't want to continue interviewing if we may have to do reinterviews later based on a new or amended approach to processing.

5. We believe we have P-1s also scheduled in New Delhi. Would follow same approach as above.

Less Urgent:

6. Should we resume planning scheduling CR for Nauru (originally planned for Feb. 5-6, but suspended). We believe this falls under the "preexisting international agreement" provision in the USG agreement w/Australia concerning Nauru. State believes that having visible evidence of progress is important to both the Australian govt and to the refugees, whose hopelessness has led to violence, self-harm, non-compliance, etc.

Asylum Processing:

1. Does the suspension apply to processing affirmative asylum applications filed by individuals from the countries on the list?
 - We have notified field leadership that they should arrange to stop any decision-issuance to asylum applicants from the listed countries until they are instructed otherwise.
 - We have told them to review their upcoming schedules and prepare to cancel any interviews for nationals from the listed countries. They were told not to actually begin cancelling the interviews until they received further guidance from HQ.

Refugee Travel Documents:

Should USCIS continue to issue refugee travel documents (domestically and abroad) to those not on the list? IO currently has a number of pending requests for refugee documents and the vast majority are Iraqi and the individuals are currently in Iraq. Will issue guidance to suspend processing those on the list, but what about the others?

TRIG:

Should we tell staff to hold off on approving cases for existing TRIG exemptions while all exemptions are being reviewed for possible rescission?

I-730's Processed Abroad:

1. Can USCIS continue to process following-to-join (I-730) applications for asylee family members from countries not on the list (e.g., China)? State's guidance to consular officers is to continue processing those. We have not issued any yet.
2. If we issued a travel document to a refugee FTJ or an asylee FTJ from one of the 7 countries before the 1/27/17 E.O. and the beneficiary hasn't traveled yet, should we try to get the travel document or packet back?

Shirk, Georgette L

From: Ruppel, Joanna
Sent: Saturday, January 28, 2017 4:21 PM
To: Scialabba, Lori L; Walters, Jessica S; Renaud, Tracy L
Cc: Nicholson, Maura J; Groom, Molly M; Zengotitabengoa, Colleen R
Subject: RE: Boarding Letters for LPRs

That is correct. So my recommendation would be that we continue to process and then work with OCC to do the necessary work to enable us to collect biometric in the future.

Joanna

Joanna Ruppel
Chief, International Operations Division
USCIS Refugee, Asylum and International Operations Directorate

(b)(6)

From: Scialabba, Lori L
Sent: Saturday, January 28, 2017 5:06 PM
To: Ruppel, Joanna; Walters, Jessica S; Renaud, Tracy L
Cc: Nicholson, Maura J; Groom, Molly M; Zengotitabengoa, Colleen R
Subject: RE: Boarding Letters for LPRs

That could be the extreme vetting part of the equation. But if we can't they will be fingerprinted upon arrival. And sent to secondary.

From: Ruppel, Joanna
Sent: Saturday, January 28, 2017 4:55:41 PM
To: Scialabba, Lori L; Walters, Jessica S; Renaud, Tracy L
Cc: Nicholson, Maura J; Groom, Molly M; Zengotitabengoa, Colleen R
Subject: Boarding Letters for LPRs

Lori and Tracy,

We do not collect fingerprints for boarding letters. We do TECS and other checks, but no biometrics. Never have. We can instruct staff to begin that ASAP tomorrow and amend our SOP, if you believe we should be collecting fingerprints from the LPRs (assuming OCC is OK with this, given that it is not included in the instructions to the form or on the web site). Adding Molly and Colleen.

Joanna

Joanna Ruppel
Chief, International Operations Division
USCIS Refugee, Asylum and International Operations Directorate

(b)(6)

From: Scialabba, Lori L
Sent: Saturday, January 28, 2017 4:41 PM
To: Ruppel, Joanna; Walters, Jessica S; Renaud, Tracy L
Cc: Lafferty, John L; Strack, Barbara L; Nicholson, Maura J; Kim, Ted H; Stone, Mary M
Subject: RE: questions for call at 4:00

Good news. They are letting LPRs board and I asked if we can do boarding letters for LPRs and they said yes. Just make sure we are running checks before hand. I know we do that and fingerprint. This is just a reminder.

From: Ruppel, Joanna
Sent: Saturday, January 28, 2017 3:56:20 PM
To: Scialabba, Lori L; Walters, Jessica S; Renaud, Tracy L
Cc: Lafferty, John L; Strack, Barbara L; Nicholson, Maura J; Kim, Ted H; Stone, Mary M
Subject: RE: questions for call at 4:00

Wasn't sure that had been confirmed about LRP. Got it.

Joanna Ruppel
Chief, International Operations Division
USCIS Refugee, Asylum and International Operations Directorate

[redacted] (b)(6)

From: Scialabba, Lori L
Sent: Saturday, January 28, 2017 3:56 PM
To: Ruppel, Joanna; Walters, Jessica S; Renaud, Tracy L
Cc: Lafferty, John L; Strack, Barbara L; Nicholson, Maura J; Kim, Ted H; Stone, Mary M
Subject: RE: questions for call at 4:00

If LPRs can't travel back with their card I don't think these folks can.

From: Ruppel, Joanna
Sent: Saturday, January 28, 2017 3:54:33 PM
To: Scialabba, Lori L; Walters, Jessica S; Renaud, Tracy L
Cc: Lafferty, John L; Strack, Barbara L; Nicholson, Maura J; Kim, Ted H; Stone, Mary M
Subject: RE: questions for call at 4:00

One more. Sorry.

From: Ruppel, Joanna
Sent: Saturday, January 28, 2017 3:51 PM
To: Scialabba, Lori L; Walters, Jessica S; Renaud, Tracy L
Cc: Lafferty, John L; Strack, Barbara L; Nicholson, Maura J; Kim, Ted H; Stone, Mary M
Subject: questions for call at 4:00
Importance: High

All,

I am still trying to get you a list of questions in a more coordinate way for Monday morning, but some of the more time-sensitive for your call at 4:00 (if you get this in time), given we need to get guidance out to staff around the world by tomorrow night.

1. Does the suspension apply to processing affirmative asylum applications filed by individuals from the countries on the list? [We are prepared to send out a message to suspend issuance of any final decisions and interviews for now]
2. Can USCIS continue to interview refugees who are religious-based minorities or should we cancel all scheduled interviews at this time?
3. Can USCIS continue to process following-to-join (I-730) applications for asylee family members from countries not on the list (e.g., China)? [State's guidance to consular officers is to continue processing those. We have not issued any yet.]
4. Should we stop issuing travel documents to those on the list who are LPRs whose green cards have been lost or stolen?

Thanks,

Joanna

Joanna Ruppel
Chief, International Operations Division
USCIS Refugee, Asylum and International Operations Directorate

[Redacted]
(b)(6)

Shirk, Georgette L

From: Renaud, Tracy L
Sent: Saturday, January 28, 2017 2:34 PM
To: Groom, Molly M; Scialabba, Lori L; Busch, Philip B; Renaud, Daniel M; Carter, Jeffrey T (Jeff); Ruppel, Joanna; Valverde, Michael; Farnam, Julie E; Nicholson, Maura J; Walters, Jessica S; Neufeld, Donald W; McCament, James W
Cc: Hatchett, Dolline L; Cosgrove, Daniel J; Strack, Barbara L; Stone, Mary M; Alfonso, Angelica M
Subject: RE: Clearance for Extreme Vetting Q&A

All-

The 2:45 call did not address any of our outstanding issues. The call centered on a group of travel ready refugees and a discussion on whether to recommend applying a waiver allowing them to travel and be admitted. However, there is a WH principals' call at 4:00 that Lori will be on and we were encouraged to send our questions forward in advance of that call so DHS can either get us answers based on their knowledge or address the questions during the 4:00 call. Lori will be forwarding those questions. Stay tuned, we may have some guidance on at least some of our issues later today.

*Tracy L. Renaud
Acting Deputy Director
US Citizenship & Immigration Services
Department of Homeland Security*

[redacted] (b)(6)

From: Groom, Molly M
Sent: Saturday, January 28, 2017 2:03 PM
To: Scialabba, Lori L; Busch, Philip B; Renaud, Daniel M; Renaud, Tracy L; Carter, Jeffrey T (Jeff); Ruppel, Joanna; Valverde, Michael; Farnam, Julie E; Nicholson, Maura J; Walters, Jessica S; Neufeld, Donald W; McCament, James W
Cc: Hatchett, Dolline L; Cosgrove, Daniel J; Strack, Barbara L; Stone, Mary M; Alfonso, Angelica M
Subject: RE: Clearance for Extreme Vetting Q&A

Oh we were not clear on whether it applied to adjustment but were looking for clarity. Maybe there is still time to get another answer?

From: Scialabba, Lori L
Sent: Saturday, January 28, 2017 1:59:11 PM
To: Busch, Phillip B; Renaud, Daniel M; Renaud, Tracy L; Carter, Jeffrey T (Jeff); Ruppel, Joanna; Valverde, Michael; Farnam, Julie E; Nicholson, Maura J; Walters, Jessica S; Groom, Molly M; Neufeld, Donald W; McCament, James W
Cc: Hatchett, Dolline L; Cosgrove, Daniel J; Strack, Barbara L; Stone, Mary M; Alfonso, Angelica M
Subject: RE: Clearance for Extreme Vetting Q&A

I can see reading it that way but we've already been told it applies to adjustment applications.

From: Busch, Philip B
Sent: Saturday, January 28, 2017 1:56:25 PM
To: Renaud, Daniel M; Renaud, Tracy L; Carter, Jeffrey T (Jeff); Ruppel, Joanna; Valverde, Michael; Farnam, Julie E;

Nicholson, Maura J; Walters, Jessica S; Groom, Molly M; Neufeld, Donald W; McCament, James W
Cc: Hatchett, Dolline L; Cosgrove, Daniel J; Scialabba, Lori L; Strack, Barbara L; Stone, Mary M; Alfonso, Angelica M
Subject: RE: Clearance for Extreme Vetting Q&A

I think that's the case with all benefits within the country, isn't it? The EO says examine benefit processes but the only thing it cuts off is entry into the United States from abroad, as I read it. Is that others' understanding? So if we mention natz, which I am certainly not suggesting we shouldn't, then we probably should expand the item to cover other benefits within the US. Thanks, Phil

From: Renaud, Daniel M
Sent: Saturday, January 28, 2017 1:49:28 PM
To: Renaud, Tracy L; Carter, Jeffrey T (Jeff); Ruppel, Joanna; Valverde, Michael; Farnam, Julie E; Nicholson, Maura J; Walters, Jessica S; Groom, Molly M; Busch, Philip B; Neufeld, Donald W; McCament, James W
Cc: Hatchett, Dolline L; Cosgrove, Daniel J; Scialabba, Lori L; Strack, Barbara L; Stone, Mary M; Alfonso, Angelica M
Subject: RE: Clearance for Extreme Vetting Q&A

I'd like to keep it in the document going to OPA that we may proceed with both making final decisions on pending N-400 petitions and administering the oath to eligible applicants from the 7 whose N-400s have been approved.

From: Renaud, Tracy L
Sent: Saturday, January 28, 2017 1:35:15 PM
To: Carter, Jeffrey T (Jeff); Ruppel, Joanna; Renaud, Daniel M; Valverde, Michael; Farnam, Julie E; Nicholson, Maura J; Walters, Jessica S; Groom, Molly M; Busch, Philip B; Neufeld, Donald W; McCament, James W
Cc: Hatchett, Dolline L; Cosgrove, Daniel J; Scialabba, Lori L; Strack, Barbara L; Stone, Mary M; Alfonso, Angelica M
Subject: RE: Clearance for Extreme Vetting Q&A

Jeff,

I posed this question to DHS HQ just this morning because we had a 1:00 ceremony at the WAS field office with five individuals from the seven countries. I got a response back from DHS just before 1:00 indicating that we were good to go ahead with naturalizing those individuals. So, the answer is no, it does not apply to candidates for naturalization.

Tracy L. Renaud
Acting Deputy Director
US Citizenship & Immigration Services
Department of Homeland Security

(b)(6)

From: Carter, Jeffrey T (Jeff)
Sent: Saturday, January 28, 2017 1:26:12 PM
To: Renaud, Tracy L; Ruppel, Joanna; Renaud, Daniel M; Valverde, Michael; Farnam, Julie E; Nicholson, Maura J; Walters, Jessica S; Groom, Molly M; Busch, Philip B; Neufeld, Donald W; McCament, James W
Cc: Hatchett, Dolline L; Cosgrove, Daniel J; Scialabba, Lori L; Strack, Barbara L; Stone, Mary M; Alfonso, Angelica M
Subject: RE: Clearance for Extreme Vetting Q&A

+ Angie

OPA just called – they would like anything we can provide within the hour so they can hold a call with CBP and others who are getting bombarded with media inquiries and prepare S1 to return Hill calls.

One question I could see for us, even though it is somewhat answered in the first question below: Does the Executive Order apply to those currently being adjudicated for naturalization?

Jeff

Jeff Carter

Acting Deputy Chief, Office of Communications
U.S. Citizenship and Immigration Services

(b)(6)

Please visit www.uscis.gov for news and information.

From: Renaud, Tracy L

Sent: Saturday, January 28, 2017 1:13 PM

To: Ruppel, Joanna; Renaud, Daniel M; Carter, Jeffrey T (Jeff); Valverde, Michael; Farnam, Julie E; Nicholson, Maura J; Walters, Jessica S; Groom, Molly M; Busch, Philip B; Neufeld, Donald W; McCament, James W

Cc: Hatchett, Dolline L; Cosgrove, Daniel J; Scialabba, Lori L; Strack, Barbara L; Stone, Mary M

Subject: RE: Clearance for Extreme Vetting Q&A

I am adding Jess, Molly and Phil back in again and also adding SCOPS. Jess is working to gather the questions you have all sent so far and compile them on one document. Once she has those together Lori and I will look at them to see which are internal questions and which might warrant public facing Q&A. So if you have sent your questions to Jess we should be all set.

*Tracy L. Renaud
Acting Deputy Director
US Citizenship & Immigration Services
Department of Homeland Security*

(b)(6)

From: Ruppel, Joanna

Sent: Saturday, January 28, 2017 1:09 PM

To: Renaud, Daniel M; Carter, Jeffrey T (Jeff); Valverde, Michael; Farnam, Julie E; Nicholson, Maura J

Cc: Hatchett, Dolline L; Cosgrove, Daniel J; Scialabba, Lori L; Renaud, Tracy L; Strack, Barbara L; Stone, Mary M

Subject: RE: Clearance for Extreme Vetting Q&A

These seem to be issue that need to be addressed at the Department level.

They are also asking for other questions we think should be included, so we may want to put together a list of questions, even if we don't have answers yet.

Joanna Ruppel
Chief, International Operations Division
U.S. Citizenship and Immigration Services

(b)(6)

Shirk, Georgette L

From: Nicholson, Maura J
Sent: Saturday, January 28, 2017 5:56 PM
To: Ruppel, Joanna; Strack, Barbara L; Stone, Mary M; Kim, Ted H; Lafferty, John L
Subject: RE: current list of time-sensitive questions

Joanna,

A couple of notes in red below. Thanks!

Maura

From: Ruppel, Joanna
Sent: Saturday, January 28, 2017 5:37 PM
To: Strack, Barbara L; Stone, Mary M; Kim, Ted H; Lafferty, John L; Nicholson, Maura J
Subject: current list of time-sensitive questions

All,

Here is what I plan to send to Jessica Walters later tonight. Let me know if you have anything else you want me to include. Barbara – this does not include the ongoing side-conversations about who can still travel, as I think that is outside this tasker.

RAIO Time Sensitive Questions on the Executive Order

Refugee Processing – what can continue?

For reference - current circuit rides:

1. Cape Town, South Africa (total number of cases is 166) – deployed through February 3:
 - a. 92% nationality is Somali – Claims are mostly based on religious beliefs (different interpretations of Islam than Al Shabaab)
 - b. 8% nationality is Democratic Republic of Congo – Claims are nationality claims based on tribe.
2. Indonesia (total number of cases is 130) – deployed through February 10:
 - a. 95% nationality is Burmese – religious minority Rohingya population
 - b. 5% nationality is Afghan – No claim info available
3. Vienna (RAD CR – one officer is currently onsite processing cases) – deployed through February 24:
 - a. 100% from Iran – claims are religious persecution as either Assyrian/Armenian Christians or Bahai
 - b. Note that these cases must obtain special visas to enter Austria and can only remain in Vienna for a very limited amount of time.

Urgent time-sensitive questions (need answers by Sunday evening, if possible):

1. Can the officer in Vienna resume interview on Monday? In light of the "notwithstanding" language at Sec. 5(e), we propose that he continue w/interviews as planned.

In particular, that section says that the USRAP can use discretion to admit refugees during the 120-day

suspension "when admitting the person would enable the United States to conform its conduct to a preexisting international agreement..." We have such an agreement w/Austria. What we are proposing is not actually ADMISSIONS, however, but continuing w/RAD interviews, which seems in keeping with the intent and spirit of this provision. Since these applicants are Iranian religious minorities, we believe that their future admission would need to be assessed under the 90-day rule in Sec. 3.

2. Can we continue interviewing in Indonesia? We recommend that we continue, at least for the Rohingya population. PRM's guidance to RSC's is to continue processing around the world and just to cancel travel for the affected population, but they are OK with this proposal.
3. Should we continue interviews in South Africa? We think it would not be the best use of resources to continue to interview this population and intend to move forward to curtail those interviews. PRM is OK with this proposal. Not sure they are okay with this yet. They wanted to wait until Monday to discuss.
4. Should we continue interviews in Moscow? We have Lautenberg interviews scheduled in Moscow all week. This includes P1s and Lautenberg (largely Ukrainian religious minorities traveling in from the Ukraine for their interviews). Some of the P-1s travel in from remote areas. Our proposed plan:

Where someone may already be in transit, we intend to continue with the interview if the individual was a Lautenberg or other religious minority, even though we are all still awaiting guidance on how the religious minority exception may be defined. For those other P1s, we intend to collect prints and inform them of the suspension, but not conduct an interview. We don't want to continue interviewing if we may have to do reinterviews later based on a new or amended approach to processing.

5. We believe we have P-1s also scheduled in New Delhi. Would follow same approach as above.

Less Urgent:

6. Should we resume planning scheduling CR for Nauru (originally planned for Feb. 5-6, but suspended). We believe this falls under the "preexisting international agreement" provision in the USG agreement w/Australia concerning Nauru. State believes that having visible evidence of progress is important to both the Australian gov't and to the refugees, whose hopelessness has led to violence, self-harm, non-compliance, etc.

Asylum Processing:

1. Does the suspension apply to processing affirmative asylum applications filed by individuals from the countries on the list?
 - We have notified field leadership that they should arrange to stop any decision-issuance to asylum applicants from the listed countries until they are instructed otherwise.
 - We have told them to review their upcoming schedules and prepare to cancel any interviews for nationals from the listed countries. They were told not to actually begin cancelling the interviews until they received further guidance from HQ.

Refugee Travel Documents:

Should USCIS continue to issue refugee travel documents (domestically and abroad) to those not on the list? IO currently has a number of pending requests for refugee documents and the vast majority are Iraqi and the individuals are currently in Iraq. Will issue guidance to suspend processing those on the list, but what about

the others? Would it make a difference if the applicant has already adjusted and become an LPR versus simply have refugee or asylee status?

TRIG:

Should we tell staff to hold off on approving cases for existing TRIG exemptions while all exemptions are being reviewed for possible rescission?

I-730's Processed Abroad:

1. Can USCIS continue to process following-to-join (I-730) applications for asylee family members from countries not on the list (e.g., China)? State's guidance to consular officers is to continue processing those. We have not issued any yet.
2. If we issued a travel document to a refugee FTJ or an asylee FTJ from one of the 7 countries before the 1/27/17 E.O. and the beneficiary hasn't traveled yet, should we try to get the travel document or packet back? Beneficiaries may have sold their belongings, etc, in preparation for travel to the US.

Joanna Ruppel
Chief, International Operations Division
USCIS Refugee, Asylum and International Operations Directorate

[Redacted] (b)(6)

Shirk, Georgette L

From: Nicholson, Maura J
Sent: Friday, February 03, 2017 8:07 AM
To: Ruppel, Joanna
Subject: RE: EO Guidance

EMEA asked to clarify whether the restriction on processing I-730 A-FTJs was on bene nationality only or on petitioner or bene nationality. My understanding is we are talking about the bene only, but I want to ensure I'm correct. Is this your understanding, too?

From: Ruppel, Joanna
Sent: Friday, February 03, 2017 8:40 AM
To: Groom, Molly M; Nicholson, Maura J; Neufeld, Donald W; Farnam, Julie E; Button, Maria G (Gemma); Hatchett, Dolline L; Patching, Laura D; Levine, Laurence D; Rosenberg, Ronald M (Ron); Lafferty, John L; Strack, Barbara L; McCament, James W; Alfonso, Angelica M; Melero, Mariela; Busch, Philip B; Meckley, Tammy M; Davidson, Andrew J; Valverde, Michael; Renaud, Daniel M; Symons, Craig M; Kovarik, Kathy N; Risch, Carl C; Rather, Michael B; Hamilton, Cristina A; Tynan, Natalie S; Nimick, Charles L (Locky); Dumas, Jessica L; Campagnolo, Donna P; Cox, Sophia; Hinds, Ian G; Zengotitabengoa, Colleen R; Rogers, Debra A; Herrmann, Mary K; Martin, Heather A; Kim, Ted H; Stone, Mary M; Carter, Constance L; Kerns, Kevin J; Borgen, Michael R; Emrich, Matthew D; Moran, Karla; Kovarik Nuebel, Kathy
Cc: Walters, Jessica S; Swanson, Toni; Young, Todd P; Renaud, Tracy L
Subject: RE: EO Guidance

And please note that under our current guidance staff can continue to process the I-730s for asylee following to join who are not in the 7 counties. We will of course be reviewing that process just as we review the process for all other benefits as directed under the order, while we continue to process.

Joanna Ruppel
Chief, International Operations Division
U.S. Citizenship and Immigration Services

(b)(6)

From: Groom, Molly M
Sent: Friday, February 03, 2017 5:34:33 AM
To: Nicholson, Maura J; Neufeld, Donald W; Farnam, Julie E; Button, Maria G (Gemma); Hatchett, Dolline L; Patching, Laura D; Levine, Laurence D; Rosenberg, Ronald M (Ron); Lafferty, John L; Strack, Barbara L; Ruppel, Joanna; McCament, James W; Alfonso, Angelica M; Melero, Mariela; Busch, Philip B; Meckley, Tammy M; Davidson, Andrew J; Valverde, Michael; Renaud, Daniel M; Symons, Craig M; Kovarik, Kathy N; Risch, Carl C; Rather, Michael B; Hamilton, Cristina A; Tynan, Natalie S; Nimick, Charles L (Locky); Dumas, Jessica L; Campagnolo, Donna P; Cox, Sophia; Hinds, Ian G; Zengotitabengoa, Colleen R; Rogers, Debra A; Herrmann, Mary K; Martin, Heather A; Kim, Ted H; Stone, Mary M; Carter, Constance L; Kerns, Kevin J; Borgen, Michael R; Emrich, Matthew D; Moran, Karla; Kovarik Nuebel, Kathy
Cc: Walters, Jessica S; Swanson, Toni; Young, Todd P; Renaud, Tracy L
Subject: RE: EO Guidance

I think that is all the EO provides for but I know Lori is working with DHS on clarifying issues.

From: Nicholson, Maura J
Sent: Friday, February 03, 2017 8:21:31 AM
To: Groom, Molly M; Neufeld, Donald W; Farnam, Julie E; Button, Maria G (Gemma); Hatchett, Dolline L; Patching, Laura D; Levine, Laurence D; Rosenberg, Ronald M (Ron); Lafferty, John L; Strack, Barbara L; Ruppel, Joanna; McCament, James W; Alfonso, Angelica M; Melero, Mariela; Busch, Philip B; Meckley, Tammy M; Davidson, Andrew J; Valverde, Michael; Renaud, Daniel M; Symons, Craig M; Kovarik, Kathy N; Risch, Carl C; Rather, Michael B; Hamilton, Cristina A; Tynan, Natalie S; Nimick, Charles L (Locky); Dumas, Jessica L; Campagnolo, Donna P; Cox, Sophia; Hinds, Ian G; Zengotitabengoa, Colleen R; Rogers, Debra A; Herrmann, Mary K; Martin, Heather A; Kim, Ted H; Stone, Mary M; Carter, Constance L; Kerns, Kevin J; Borgen, Michael R; Emrich, Matthew D; Moran, Karla; Kovarik Nuebel, Kathy
Cc: Walters, Jessica S; Swanson, Toni; Young, Todd P; Renaud, Tracy L
Subject: RE: EO Guidance

I think the issue we still need clarification on is whether that hold for I-730 beneficiaries outside the US would only be for refugee follow-to-joins (all nationalities) and asylee follow-to-joins who are nationals or duals of one of the 7 countries.

From: Groom, Molly M
Sent: Friday, February 03, 2017 7:23:57 AM
To: Neufeld, Donald W; Farnam, Julie E; Button, Maria G (Gemma); Hatchett, Dolline L; Patching, Laura D; Levine, Laurence D; Rosenberg, Ronald M (Ron); Lafferty, John L; Strack, Barbara L; Ruppel, Joanna; McCament, James W; Alfonso, Angelica M; Melero, Mariela; Busch, Philip B; Meckley, Tammy M; Davidson, Andrew J; Valverde, Michael; Renaud, Daniel M; Symons, Craig M; Kovarik, Kathy N; Risch, Carl C; Rather, Michael B; Hamilton, Cristina A; Tynan, Natalie S; Nimick, Charles L (Locky); Dumas, Jessica L; Campagnolo, Donna P; Cox, Sophia; Hinds, Ian G; Zengotitabengoa, Colleen R; Rogers, Debra A; Herrmann, Mary K; Martin, Heather A; Nicholson, Maura J; Kim, Ted H; Stone, Mary M; Carter, Constance L; Kerns, Kevin J; Borgen, Michael R; Emrich, Matthew D; Moran, Karla; Kovarik Nuebel, Kathy
Cc: Walters, Jessica S; Swanson, Toni; Young, Todd P; Renaud, Tracy L
Subject: RE: EO Guidance

I think that is generally right for SCOPS. RAIO, especially IO, would have additional things to hold.

From: Neufeld, Donald W
Sent: Friday, February 03, 2017 7:18:52 AM
To: Farnam, Julie E; Button, Maria G (Gemma); Hatchett, Dolline L; Patching, Laura D; Levine, Laurence D; Rosenberg, Ronald M (Ron); Lafferty, John L; Strack, Barbara L; Ruppel, Joanna; McCament, James W; Alfonso, Angelica M; Melero, Mariela; Groom, Molly M; Busch, Phillip B; Meckley, Tammy M; Davidson, Andrew J; Valverde, Michael; Renaud, Daniel M; Symons, Craig M; Kovarik, Kathy N; Risch, Carl C; Rather, Michael B; Hamilton, Cristina A; Tynan, Natalie S; Nimick, Charles L (Locky); Dumas, Jessica L; Campagnolo, Donna P; Cox, Sophia; Hinds, Ian G; Zengotitabengoa, Colleen R; Rogers, Debra A; Herrmann, Mary K; Martin, Heather A; Nicholson, Maura J; Kim, Ted H; Stone, Mary M; Carter, Constance L; Kerns, Kevin J; Borgen, Michael R; Emrich, Matthew D; Moran, Karla; Kovarik Nuebel, Kathy
Cc: Walters, Jessica S; Swanson, Toni; Young, Todd P; Renaud, Tracy L
Subject: RE: EO Guidance

I read this to mean the only thing we should continue to hold in SCOPS would be I-730s for beneficiaries outside the United States. Is that accurate?

From: Farnam, Julie E
Sent: Thursday, February 02, 2017 5:32:13 PM
To: Button, Maria G (Gemma); Hatchett, Dolline L; Patching, Laura D; Levine, Laurence D; Rosenberg, Ronald M (Ron);

Lafferty, John L; Strack, Barbara L; Ruppel, Joanna; McCament, James W; Neufeld, Donald W; Alfonso, Angelica M; Melero, Mariela; Groom, Molly M; Busch, Philip B; Meckley, Tammy M; Davidson, Andrew J; Valverde, Michael; Renaud, Daniel M; Symons, Craig M; Kovarik, Kathy N; Risch, Carl C; Rather, Michael B; Hamilton, Cristina A; Tynan, Natalie S; Nimick, Charles L (Locky); Dumas, Jessica L; Campagnolo, Donna P; Cox, Sophia; Hinds, Ian G; Zengotitabengoa, Colleen R; Rogers, Debra A; Herrmann, Mary K; Martin, Heather A; Nicholson, Maura J; Kim, Ted H; Stone, Mary M; Carter, Constance L; Kerns, Kevin J; Borgen, Michael R; Emrich, Matthew D; Moran, Karla; Kovarik Nuebel, Kathy
Cc: Walters, Jessica S; Swanson, Toni; Young, Todd P; Renaud, Tracy L
Subject: RE: EO Guidance

Signed and dated copy attached. Have a good evening!

From: Farnam, Julie E
Sent: Thursday, February 02, 2017 5:20 PM
To: Button, Maria G (Gemma); Hatchett, Dolline L; Patching, Laura D; Levine, Laurence D; Rosenberg, Ronald M (Ron); Lafferty, John L; Strack, Barbara L; Ruppel, Joanna; McCament, James W; Neufeld, Donald W; Alfonso, Angelica M; Melero, Mariela; Groom, Molly M; Busch, Philip B; Meckley, Tammy M; Davidson, Andrew J; Valverde, Michael; Renaud, Daniel M; Symons, Craig M; Kovarik, Kathy N; Risch, Carl C; Rather, Michael B; Hamilton, Cristina A; Tynan, Natalie S; Nimick, Charles L (Locky); Dumas, Jessica L; Campagnolo, Donna P; Cox, Sophia; Hinds, Ian G; Zengotitabengoa, Colleen R; Rogers, Debra A; Herrmann, Mary K; Martin, Heather A; Nicholson, Maura J; Kim, Ted H; Stone, Mary M; Carter, Constance L; Kerns, Kevin J; Borgen, Michael R [REDACTED] Emrich, Matthew D; Moran, Karla; Kovarik Nuebel, Kathy
Cc: Walters, Jessica S; Swanson, Toni; Young, Todd P; Renaud, Tracy L
Subject: RE: EO Guidance

(b)(6)

Please hold off on disseminating just yet. The copy was not dated. I'll send an updated version in just a minute.

From: Farnam, Julie E
Sent: Thursday, February 02, 2017 5:13 PM
To: Button, Maria G (Gemma); Hatchett, Dolline L; Patching, Laura D; Levine, Laurence D; Rosenberg, Ronald M (Ron); Lafferty, John L; Strack, Barbara L; Ruppel, Joanna; McCament, James W; Neufeld, Donald W; Alfonso, Angelica M; Melero, Mariela; Groom, Molly M; Busch, Philip B; Meckley, Tammy M; Davidson, Andrew J; Valverde, Michael; Renaud, Daniel M; Symons, Craig M; Kovarik, Kathy N; Risch, Carl C; Rather, Michael B; Hamilton, Cristina A; Tynan, Natalie S; Nimick, Charles L (Locky); Dumas, Jessica L; Campagnolo, Donna P; Cox, Sophia; Hinds, Ian G; Zengotitabengoa, Colleen R; Rogers, Debra A; Herrmann, Mary K; Martin, Heather A; Nicholson, Maura J; Kim, Ted H; Stone, Mary M; Carter, Constance L; Kerns, Kevin J; Borgen, Michael R [REDACTED] Emrich, Matthew D; Moran, Karla; Kovarik Nuebel, Kathy
Cc: Walters, Jessica S; Swanson, Toni; Young, Todd P; Renaud, Tracy L
Subject: EO Guidance

(b)(6)

Attached please find the EO implementation guidance. OCOMM will also be sending this out to a larger audience and I will post it on the ECN.

Julie Farnam
Senior Advisor
Field Operations Directorate
U.S. Citizenship and Immigration Services
[REDACTED]

(b)(6)

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Shirk, Georgette L

From: Nicholson, Maura J
Sent: Sunday, January 29, 2017 11:11 AM
To: Scialabba, Lori L; Ruppel, Joanna; Strack, Barbara L; Stone, Mary M
Cc: Renaud, Tracy L; Hatchett, Dolline L; Alfonso, Angelica M; Walters, Jessica S; Young, Todd P; Kliska, Jennifer R
Subject: RE: EO implementation

Thank you, Lori. I'll notify PRM now.

From: Scialabba, Lori L
Sent: Sunday, January 29, 2017 12:10 PM
To: Ruppel, Joanna; Strack, Barbara L; Stone, Mary M
Cc: Renaud, Tracy L; Nicholson, Maura J; Hatchett, Dolline L; Alfonso, Angelica M; Walters, Jessica S; Young, Todd P
Subject: RE: EO implementation

Yes cancel South Africa.

From: Ruppel, Joanna
Sent: Sunday, January 29, 2017 12:05:37 PM
To: Scialabba, Lori L; Strack, Barbara L; Stone, Mary M
Cc: Renaud, Tracy L; Nicholson, Maura J; Hatchett, Dolline L; Alfonso, Angelica M; Walters, Jessica S; Young, Todd P
Subject: RE: EO implementation

OK. Will get you what is still scheduled for Q2 aside from what is ongoing now. Just to confirm, and here is the consolidated list for interviews for this coming week and the actions we plan on taking, until we get any further guidance. Would very much appreciate confirmation on plan of action and answer to question below:

Vienna: We will continue with interviews

Indonesia: We will continue with all interviews

Moscow: Where someone may already be in transit, we intend to continue with the interview if the individual was a Lautenberg or other religious minority, even though we are all still awaiting guidance on how the religious minority exception may be defined. For those other PIs, we intend to collect prints and inform them of the suspension, but not conduct an interview. We don't want to continue interviewing if we may have to do reinterviews later based on a new or amended approach to processing.

New Delhi: Same as above with respect to religious minorities

Also, we would like to cancel all interviews scheduled for the rest of the Circuit Ride in Cape Town, which is mostly Somali. Can we move forward with cancelling? Please confirm.

Thanks,

Joanna

Joanna Ruppel
Acting Associate Director
USCIS Refugee, Asylum and International Operations

(b)(6)

From: Scialabba, Lori L
Sent: Sunday, January 29, 2017 12:00 PM
To: Ruppel, Joanna; Strack, Barbara L; Stone, Mary M
Cc: Renaud, Tracy L; Nicholson, Maura J; Hatchett, Dolline L; Alfonso, Angelica M; Walters, Jessica S; Young, Todd P
Subject: RE: EO implementation

Whatever we have already scheduled.

Go ahead with the interviews that you are recommending we keep. I already told DHS we are going ahead with Vienna. The one issue we might have is after the review of the process if we are adding anything to vetting or interviewing you may have to revisit the cases you are now interviewing.

From: Ruppel, Joanna
Sent: Sunday, January 29, 2017 11:35:49 AM
To: Scialabba, Lori L; Strack, Barbara L; Stone, Mary M
Cc: Renaud, Tracy L; Nicholson, Maura J
Subject: RE: EO implementation

Lori,

We are working with RAD to provide you a consolidated response to questions below. We need clarification from you on question #3. Are you seeking all Circuit Rides scheduled for Q2?

Joanna

Joanna Ruppel
Acting Associate Director
USCIS Refugee, Asylum and International Operations

(b)(6)

From: Scialabba, Lori L
Sent: Sunday, January 29, 2017 9:42 AM
To: Strack, Barbara L; Ruppel, Joanna; Stone, Mary M
Cc: Renaud, Tracy L; Scialabba, Lori L
Subject: EO implementation

Barbara/Joanna,

I need some information.

1. How many refugees are travel ready and by that I mean we've completed everything and they could get on a plane. I want a breakdown by nationality.

2. I know you already did it but give me a list of where we are on circuit rides right now, how many officers, and what the populations look like.

South Africa - Sudanese/Somalis, team of 4

Malaysia (sp) - Rohingya team of 4?

Make corrections where I have things wrong.

3. Scheduled circuit rides coming up with the same information.
4. Can we get an RSO assessment on places we would normally go that may be dangerous after this announcement. Baghdad, Turkey, Egypt, Jordan, etc. Get me a completely list of where you think that is necessary. I don't think we will be going anywhere but having the information will be helpful.
5. IF we are only admitting 50,000 refugees do we need to do more circuit rides to reach that number. Keep in mind we may not be admitting anyone or very few people from the 7countries.
6. Please get me the number of I730s we have ready to interview or have interviewed that could travel. Break it down that way with nationalities. I also need it broken down by Asylum vs Refugee following to join.

I know this is a tall order. I have a call at 4 and would appreciate anything you can get me by then.

Also, if you have any suggestions on how to handle case by case reviews (you'll need to have something that represents additional vetting) let me have that to run up the chain. If we can get that cleared we might be able to move ahead with some case by case review.

Sorry for the fire drill on a Sunday especially when we had one on Saturday too.

Thanks,
Lori

Shirk, Georgette L

From: Ruppel, Joanna
Sent: Sunday, January 29, 2017 11:31 AM
To: Lafferty, John L
Subject: RE: Executive Order

Do Lori and Tracy know? We may want to flag

Joanna

Joanna Ruppel
Acting Associate Director
USCIS Refugee, Asylum and International Operations

[redacted] (b)(6)

From: Lafferty, John L
Sent: Sunday, January 29, 2017 12:30 PM
To: Groom, Molly M; Ruppel, Joanna; Zengotitabengoa, Colleen R
Subject: RE: Executive Order

We are already being contacted by attorneys about some individuals who have been detained.

From: Groom, Molly M
Sent: Sunday, January 29, 2017 12:25:26 PM
To: Lafferty, John L; Ruppel, Joanna; Zengotitabengoa, Colleen R
Subject: RE: Executive Order

I believe you will be seeing CF/RF cases from the 7 countries because that was what CBP had proposed for some cases where waivers may be considered.

From: Lafferty, John L
Sent: Sunday, January 29, 2017 12:23 PM
To: Groom, Molly M; Ruppel, Joanna; Zengotitabengoa, Colleen R
Subject: RE: Executive Order

I also don't think that the language of the EO and the cited INA sections indicate that asylum interviews should stop or decisions should be held up, but it is probably wise to confirm rather than proceed and get told otherwise later. I have instructed the offices to continue to accept and process CF and RF referrals since we are not granting any benefit. The only thing that we have actually instructed a pause on until we get an answer is the issuance of decisions on asylum cases. Offices were just told to prepare for possible cancellation of interviews, but they are to proceed unless/until instructed otherwise.

From: Groom, Molly M
Sent: Sunday, January 29, 2017 12:08:50 PM

To: Ruppel, Joanna; Lafferty, John L; Zengotitabengoa, Colleen R
Subject: RE: Executive Order

Who's suggesting otherwise? I didn't see this in the questions to OPA. Seems absolutely clear to me—same as natz

From: Ruppel, Joanna
Sent: Sunday, January 29, 2017 11:57 AM
To: Groom, Molly M; Lafferty, John L; Zengotitabengoa, Colleen R
Subject: RE: Executive Order

We need confirmation from the Department on that. If you can assist through discussions with OGC, would be wonderful.

Joanna

Joanna Ruppel
Acting Associate Director
USCIS Refugee, Asylum and International Operations

From: Groom, Molly M
Sent: Sunday, January 29, 2017 11:56 AM
To: Ruppel, Joanna; Lafferty, John L; Zengotitabengoa, Colleen R
Subject: RE: Executive Order

I don't understand how asylum would be affected by the EO. If they tell you otherwise, please let me know.

From: Ruppel, Joanna
Sent: Sunday, January 29, 2017 11:54 AM
To: Neufeld, Donald W; Renaud, Daniel M; Levine, Laurence D; Groom, Molly M; Walters, Jessica S
Cc: Young, Todd P; Slattery, Shannon E; Valverde, Michael; Walters, Jessica S; Lafferty, John L; Strack, Barbara L; Stone, Mary M; Nicholson, Maura J
Subject: RE: Executive Order

Asylum has notified field leadership that they should arrange to stop any decision-issuance to asylum applicants from the listed countries until they are instructed otherwise. They also told leadership to review their upcoming schedules and prepare to cancel any interviews for nationals from the listed countries. They were told not to actually begin cancelling the interviews until they received further guidance from HQ.

IO is working with front office on guidance for international staff and ongoing refugee interviews. We have greenlight for refugee interviews in Vienna to continue tomorrow.

Joanna

Joanna Ruppel
Acting Associate Director
USCIS Refugee, Asylum and International Operations

(b)(6)

From: Neufeld, Donald W
Sent: Sunday, January 29, 2017 11:52 AM

To: Renaud, Daniel M; Levine, Laurence D; Groom, Molly M; Walters, Jessica S
Cc: Ruppel, Joanna; Young, Todd P; Slattery, Shannon E; Valverde, Michael; Walters, Jessica S
Subject: RE: Executive Order

Same here Larry. We have put a full stop on everything involving the 7 countries at the centers pending further guidance.

From: Renaud, Daniel M
Sent: Sunday, January 29, 2017 11:40:01 AM
To: Levine, Laurence D; Groom, Molly M; Neufeld, Donald W; Walters, Jessica S
Cc: Ruppel, Joanna; Young, Todd P; Slattery, Shannon E; Valverde, Michael; Walters, Jessica S
Subject: RE: Executive Order

As of right now, we are holding all applications and petitions from led by individuals from the 7 countries. We did let an N-400 ceremony and an N-600 ceremony go forward yesterday.

We expect today to put out general guidance that the EO does not impact citizenship cases. DHS is reviewing the language. Everything else is on hold.

From: Levine, Laurence D
Sent: Sunday, January 29, 2017 11:24:57 AM
To: Groom, Molly M; Neufeld, Donald W; Walters, Jessica S; Renaud, Daniel M
Cc: Ruppel, Joanna; Young, Todd P; Slattery, Shannon E; Valverde, Michael; Walters, Jessica S
Subject: RE: Executive Order

Has anything gone out to our field folks at this point about pendings?

Larry Levine
Acting Chief
Office of Policy & Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security

[redacted] (b)(6)

From: Groom, Molly M
Sent: Saturday, January 28, 2017 9:21:08 PM
To: Levine, Laurence D; Neufeld, Donald W; Walters, Jessica S; Renaud, Daniel M
Cc: Ruppel, Joanna; Young, Todd P; Slattery, Shannon E; Valverde, Michael; Walters, Jessica S
Subject: RE: Executive Order

Trying to get best information.

From: Levine, Laurence D
Sent: Saturday, January 28, 2017 9:20:37 PM
To: Neufeld, Donald W; Walters, Jessica S; Renaud, Daniel M
Cc: Ruppel, Joanna; Young, Todd P; Slattery, Shannon E; Valverde, Michael; Groom, Molly M; Walters, Jessica S
Subject: RE: Executive Order

Reuters is reporting that the stay covers holders of valid IV and NIVs and arriving refugees

Larry Levine
Acting Chief
Office of Policy & Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security

[redacted]
(b)(6)

From: Levine, Laurence D
Sent: Saturday, January 28, 2017 9:08:36 PM
To: Neufeld, Donald W; Walters, Jessica S; Renaud, Daniel M
Cc: Ruppel, Joanna; Young, Todd P; Slattery, Shannon E; Valverde, Michael; Groom, Molly M; Walters, Jessica S
Subject: RE: Executive Order

I've only seen this on Twitter, but it looks like a judge in EDNY has granted a nationwide stay of the refugee EO. I haven't been able to nail down a copy of the actual order, so I have no actual details. Anyone else hear anything?

Larry Levine
Acting Chief
Office of Policy & Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security

[redacted]
(b)(6)

From: Neufeld, Donald W
Sent: Saturday, January 28, 2017 12:54:08 PM
To: Walters, Jessica S; Renaud, Daniel M
Cc: Ruppel, Joanna; Young, Todd P; Slattery, Shannon E; Valverde, Michael; Levine, Laurence D; Groom, Molly M; Walters, Jessica S
Subject: RE: Executive Order

Yes, thanks. I've shared with my folks too.

From: Walters, Jessica S
Sent: Saturday, January 28, 2017 12:41:04 PM
To: Renaud, Daniel M
Cc: Neufeld, Donald W; Ruppel, Joanna; Young, Todd P; Slattery, Shannon E; Valverde, Michael; Levine, Laurence D; Groom, Molly M; Walters, Jessica S
Subject: RE: Executive Order

Thanks very much.

Jessica S. Walters
Senior Advisor
Office of the USCIS Deputy Director
U.S. Citizenship and Immigration Services

[redacted] (b)(6)

From: Renaud, Daniel M
Sent: Saturday, January 28, 2017 11:34:16 AM
To: Walters, Jessica S
Cc: Neufeld, Donald W; Ruppel, Joanna; Young, Todd P; Slattery, Shannon E; Valverde, Michael; Levine, Laurence D; Groom, Molly M
Subject: FW: Executive Order

FOD will be using the attached matrix to help identify questions and track implementation timelines. You may find it useful as well as we identify questions, develop guidance, and implementation plans.

Daniel M. Renaud
Associate Director | Field Operations Directorate
U.S. Citizenship and Immigration Services
Department of Homeland Security

From: Slattery, Shannon E
Sent: Saturday, January 28, 2017 12:16:07 PM
To: Valverde, Michael; Renaud, Daniel M
Cc: Farnam, Julie E; Kvortek, Lisette E
Subject: RE: Executive Order

The attached document is a matrix breaking down the EO into its component parts and action items. I've added columns for QAs and started compiling those I saw come across this morning and some early ones I saw from Div. I.

The Policy and general objectives language at the beginning pulls key language from the EO for quick reference when we're drafting statements. The date conversion chart indicates the calendar dates associated with any specific timeframe mentioned in the EO.

I am working to convert this to Excel over the weekend so it's a little more scalable, but wanted to pass it on for initial use.

Please let me know if you have any questions or see anything that needs editing.

Thanks,

Shannon E. Slattery
Field Operations Directorate | U.S. Citizenship and Immigration Services

[redacted] (b)(6)

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From: Valverde, Michael
Sent: Saturday, January 28, 2017 11:42 AM
To: Renaud, Daniel M; Kvortek, Lisette E
Cc: Farnam, Julie E; Slattery, Shannon E
Subject: RE: Executive Order

For section 4, do we need to take any actions prior to the "plan" described in section four being developed and implemented? And who is responsible for developing the plan?

For section 6, should we adjudicate cases in TRIG hold? It doesn't seem like exemptions are forthcoming.

Michael Valverde
DHS USCIS
Field Operations Directorate, Deputy Associate Director

[redacted] (b)(6)

From: Renaud, Daniel M
Sent: Saturday, January 28, 2017 11:34:15 AM
To: Kvortek, Lisette E
Cc: Valverde, Michael; Farnam, Julie E; Slattery, Shannon E
Subject: FW: Executive Order
To start and just on this part of the EO:

1. Are the following forms impacted: N-400s, N-336, I-601A, I-131, I-765, N-565, I-130, ...?
2. Should we deschedule oath ceremonies for individuals from the 7?
3. How do we handle N-400s 120+ days from interview?
4. Should we stop RFEs?
5. Should we stop scheduling interviews?

Daniel M. Renaud
Associate Director | Field Operations Directorate
U.S. Citizenship and Immigration Services
Department of Homeland Security

From: Renaud, Tracy L
Sent: Saturday, January 28, 2017 11:21:12 AM
To: Ruppel, Joanna; Neufeld, Donald W; Scialabba, Lori L; Renaud, Daniel M; Strack, Barbara L; Davidson, Andrew J; Emrich, Matthew D
Cc: McCament, James W; Nicholson, Maura J; Kliska, Jennifer R; Walters, Jessica S
Subject: RE: Executive Order

Everyone should be compiling a list of all of their questions and getting them to Jess so Lori and I have a complete list. If there are URGENT questions that we need answers to before Monday go ahead and flag those for us but I'm not sure the Department is going to get to us immediately, they are likely dealing with issues at the POEs which have a bit more urgency. I did send the question of whether this impact naturalization or not to the Department in an attempt to get an answer this weekend only because we have oath ceremonies scheduled for Monday.

Tracy L. Renaud
Acting Deputy Director
US Citizenship & Immigration Services
Department of Homeland Security

[redacted]
(b)(6)

From: Ruppel, Joanna
Sent: Saturday, January 28, 2017 9:54 AM
To: Neufeld, Donald W; Scialabba, Lori L; Renaud, Daniel M; Higgins, Jennifer; Strack, Barbara L; Davidson, Andrew J; Emrich, Matthew D
Cc: Renaud, Tracy L; McCament, James W; Nicholson, Maura J; Kliska, Jennifer R
Subject: RE: Executive Order

I would also like to flag I-730s. While adjudication does not give status to those outside the US, it does for those inside. Also, since part of the directive is to reviewing to enhance information we collect and screening, we likely will be proposing changes to the I-730 process, to include revisions to the form and the I-730A, which would be completed by the beneficiary. We have mock ups and can move quickly, but need to think first about those in pipeline. Maura has giving directive to staff outside US to cancel pick up document pickups for 730s for next week.

We are working on further guidance and of course will coordinate with SCOP.

State has also issued guidance. Will forward.

Joanna

Joanna Ruppel
Chief, International Operations Division
U.S. Citizenship and Immigration Services

[redacted] (b)(6)

From: Neufeld, Donald W
Sent: Friday, January 27, 2017 5:34:17 PM
To: Scialabba, Lori L; Renaud, Daniel M; Higgins, Jennifer; Ruppel, Joanna; Strack, Barbara L; Davidson, Andrew J; Emrich, Matthew D
Cc: Renaud, Tracy L; McCament, James W
Subject: RE: Executive Order
I can do that but I think it's the same as what I've mentioned. It would be good to have time to consult with others. Can I get it to you on Monday?

And, in the meantime can I get something to the centers this weekend? I can share a draft email tomorrow.

From: Scialabba, Lori L
Sent: Friday, January 27, 2017 8:04:01 PM
To: Neufeld, Donald W; Renaud, Daniel M; Higgins, Jennifer; Renaud, Daniel M; Ruppel, Joanna; Strack, Barbara L; Davidson, Andrew J; Emrich, Matthew D
Cc: Renaud, Tracy L; McCament, James W
Subject: RE: Executive Order
O.K. Take Jennifer off the email chains. Don, I want one document with all your issues. Same goes for Dan, Joanna/Barbara and Matt/Andrew. We'll start regular meetings next week.

Lori

From: Neufeld, Donald W
Sent: Friday, January 27, 2017 8:00 PM
To: Scialabba, Lori L; Renaud, Daniel M; Higgins, Jennifer
Cc: Renaud, Tracy L; McCament, James W
Subject: RE: Executive Order

For clarity, what would be suspended are I-485s, I-539s, I-129s and I-131s. If I'm missing something please let me know.

From: Neufeld, Donald W
Sent: Friday, January 27, 2017 7:56:01 PM
To: Scialabba, Lori L; Renaud, Daniel M; Higgins, Jennifer
Cc: Renaud, Tracy L; McCament, James W
Subject: RE: Executive Order

I can get word out over the weekend to the centers to suspend processing. I just need the list of 7 countries to include in my message. The Directors are already on notice of the possibility. I would exclude from the suspension any petitions for beneficiaries abroad and TPS/DACA.

From: Scialabba, Lori L
Sent: Friday, January 27, 2017 7:31:26 PM
To: Neufeld, Donald W; Renaud, Daniel M; Higgins, Jennifer
Cc: Renaud, Tracy L
Subject: RE: Executive Order

I think the answer to the first two is yes they are impacted for the 7 countries identified. Not sure about petitions for beneficiaries abroad. I'll ask.

From: Neufeld, Donald W
Sent: Friday, January 27, 2017 7:26 PM
To: Scialabba, Lori L; Renaud, Daniel M; Higgins, Jennifer
Cc: Renaud, Tracy L
Subject: RE: Executive Order

Thanks for sending this, Lori.

As we've discussed, the most urgent question is whether adjustments and extensions or changes of nonimmigrant status are impacted. Separately, is there any impact on petitions for beneficiaries abroad since we would not be determining admissibility? I would think not, but it would be good to have clarity.

From: Scialabba, Lori L
Sent: Friday, January 27, 2017 5:59:36 PM
To: Renaud, Daniel M; Higgins, Jennifer
Cc: Renaud, Tracy L; Neufeld, Donald W
Subject: RE: Executive Order

I think that's o.k. and going forward don't schedule these for interviews.

From: Renaud, Daniel M
Sent: Friday, January 27, 2017 5:47 PM
To: Scialabba, Lori L; Higgins, Jennifer
Cc: Renaud, Tracy L; Neufeld, Donald W
Subject: RE: Executive Order

If we can define "suspend processing" as "suspend prior to approval", then one option would be to continue with the interviews, since it is likely we have some that are scheduled as soon as Monday for affected applicants and then hold the cases post interview. We are trying to scrape our schedulers (C4 and NASS) to see when and where we have interviews scheduled for individuals from affected countries. We should have that sometime Monday.

Daniel M. Renaud
Associate Director, Field Operations Directorate
Department of Homeland Security | U.S. Citizenship and Immigration Services

From: Scialabba, Lori L
Sent: Friday, January 27, 2017 12:43 PM
To: Higgins, Jennifer
Cc: Renaud, Tracy L; Neufeld, Donald W; Renaud, Daniel M
Subject: FW: Executive Order

(b)(5)

FYI. I think Andrew might be right in terms of what is meant but [redacted]

From: Davidson, Andrew J
Sent: Friday, January 27, 2017 12:37 PM
To: Renaud, Tracy L
Cc: Neufeld, Donald W; Renaud, Daniel M; Scialabba, Lori L
Subject: Executive Order

Tracy,

It is my understanding that POTUS will sign the "Protecting the Nation from Terrorist Attacks by Foreign Nationals" order today at 4:30pm. In complying with the EA I believe we need immediate clarification in Section 3 (c) relative to the 30 day suspension of processing immigrants and non-immigrants from the designated countries of interest and if this extends to processing of permanent resident applications. Though the EA states "immigrant and non-immigrant entry into the United States", once we grant an adjustment we "admit" that person.

We just need to clarify if by extension this applies to our product lines. If this is the case then Don and Dan will need to get guidance to the Field to put these adjudications on hold. Other than the refugee suspension that appears fully deployed on our end this appears the most urgent clarification we need relative to the EAs.

(b)(5)

Thanks,

Andrew Davidson
Acting Deputy Associate Director
Fraud Detection and National Security Directorate
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security
111 Massachusetts Avenue, NW
Washington, DC 20529

[redacted] (b)(6)

Shirk, Georgette L

From: Ruppel, Joanna
Sent: Sunday, January 29, 2017 5:38 PM
To: Scialabba, Lori L; Renaud, Tracy L
Cc: Nicholson, Maura J
Subject: RE: Interim guidance for IO

Got it.

Joanna Ruppel
Chief, International Operations Division
U.S. Citizenship and Immigration Services

[redacted] (b)(6)

From: Scialabba, Lori L
Sent: Sunday, January 29, 2017 3:37:33 PM
To: Ruppel, Joanna; Renaud, Tracy L
Cc: Nicholson, Maura J
Subject: RE: Interim guidance for IO

Yes. Say consistent with S1s directive regarding LPRs.

From: Ruppel, Joanna
Sent: Sunday, January 29, 2017 6:31:33 PM
To: Scialabba, Lori L; Renaud, Tracy L
Cc: Nicholson, Maura J
Subject: RE: Interim guidance for IO

We can also say they can process a request for boarding letter from LPR per existing guidance (our existing guidance directs them to contact HQ if there is significant derog). Would be consistent with press release Tracy just forwarded.

Joanna Ruppel
Chief, International Operations Division
U.S. Citizenship and Immigration Services

[redacted] (b)(6)

From: Ruppel, Joanna
Sent: Sunday, January 29, 2017 3:12:32 PM
To: Scialabba, Lori L; Renaud, Tracy L
Cc: Nicholson, Maura J
Subject: RE: Interim guidance for IO

Do you want us to send a simply message like FOD and SCOPS and Asylum did to their leadership to just hold all decisions for cases from affected countries and proceed otherwise?

Note we have no cases for boarding letters pending from the affected countries.

Joanna Ruppel
Acting Associate Director
USCIS Refugee, Asylum and International Operations

[redacted] (b)(6)

From: Scialabba, Lori L
Sent: Sunday, January 29, 2017 6:10 PM
To: Ruppel, Joanna; Renaud, Tracy L
Cc: Nicholson, Maura J
Subject: RE: Interim guidance for IO

I don't think you can send this as it is.

From: Ruppel, Joanna
Sent: Sunday, January 29, 2017 6:01:45 PM
To: Renaud, Tracy L; Scialabba, Lori L
Cc: Nicholson, Maura J
Subject: FW: Interim guidance for IO

Tracy and Lori,

Just as FOD, SCOPs and Asylum have sent out guidance to staff to hold certain cases tomorrow, IO plans to send out the following tonight to address the questions we have been getting and ensure staff do not violate the E.O. Please let me know if you have any objections.

The guidance is only intended for cases this week, until we can issue cleared guidance.

Thanks,

Joanna

From: Nicholson, Maura J
Sent: Sunday, January 29, 2017 5:48 PM
To: Ruppel, Joanna
Subject: Interim guidance for IO
Importance: High

Joanna – this is what I'd like to send to the Field Managers. I'll attach the EO when I send it for their reference.

International Managers,

We continue to work as rapidly as possible to get clarification on implementation of the Executive Order signed on January 27, 2017 (attached for reference), and are working on detailed guidance to help field staff address various scenarios you may be encountering overseas. In the meantime, please follow the below guidance for the next few days until more complete guidance is available:

1. Refugee-Related Processing

A. For all I-590 Refugee Cases (all nationalities), all I-730 Refugee Follow-to-Join cases (all nationalities), and I-730 Asylee Follow-to-Join cases where the beneficiary is a national of Iraq, Iran, Libya, Somalia, Sudan, Syria, and Yemen:

1. Interview already scheduled this week, sufficient time to cancel

- Cancel interview, even if Lautenberg or other religious minority case. We will offer further guidance on these types of cases as soon as it is available.
- If I-730 cases, pause CAMINO Clock effective 1/27/2017; enter note "Per Executive Order".

2. Interview already scheduled, insufficient time to cancel

- Collect fingerprints, review bio-data on case for accuracy and completeness, and notify applicant that he/she will be contacted with additional information in the future when we are able to proceed in the processing of his or her case.
- For I-730 cases, pause CAMINO Clock effective 1/27/2017; enter note "Per Executive Order".

3. Interview not yet scheduled

- Do not schedule any cases until further notice.
- For I-730 cases, pause CAMINO Clock effective 1/27/2017; enter note "Per Executive Order".

4-6 below relate to I-730 Refugee Follow-to-Joins (all nationalities) and I-730 Asylee Follow-to-Joins of the 7 nationalities (Only)

4. Already interviewed, pending decision or travel packet issuance

- No final decisions or travel packets should be issued. Pause CAMINO Clock effective 1/27/2017; enter note "Per Executive Order".

5. If new cases received

- Immediately pause the Clock upon case entry, noting 1/27/2017 E.O.

Note: I-730 Asylee Follow-to-Join cases of all other nationalities can continue processing to completion, as usual.

B. I-590 Adjudications, I-590 Supervisory Review and I-602 Adjudications

- Staff should stop making decisions or completing supervisory review until further notice.

C. RFR Adjudications

- You may continue to process RFR adjudications to completion if they are denials. All others should be held until further notice and the Clock in CAMINO paused as of 1/27/2017.

2. All Other Benefit Types where the Applicant/Beneficiary is a national or dual national of Iraq, Iran, Libya, Somalia, Sudan, Syria, or Yemen

You may continue processing other case types but do not issue any final decisions until further notice, including I-131A boarding letters. If you receive an I-131A boarding letter request from a national or dual national of one of the 7 countries listed above, please contact me and Jen Kliska for guidance. I-407 abandonments can continue to be processed.

3. Handling of Inquiries

If you receive inquiries from foreign governments about any DHS equities related to the Executive Orders, please direct those inquiries to Matt King, Deputy Assistant Secretary, Policy at [REDACTED] Please do not provide his contact information to parties external to USCIS.

(b)(6)

The above guidance is only a stop-gap to assist in addressing the most urgent needs for the next few days or even this week when more detailed cleared guidance can be issued. Also, for awareness, OCOMM is also working on talking points and FAQs related to the Executive Order, which should be issued via USCIS Broadcast soon.

If districts can continue to collect and consolidate questions from the field, that would be helpful. I appreciate the difficulty of being on the front line and getting inquiries from the public and others for which we don't yet have complete answers. Many people throughout the Agency and Department are working hard to sort out impact of the E.O. on the Agency. I appreciate your patience during this effort!

More to follow soon. Thank you for your continued support and dedication as we navigate the current policy changes!

Maura

Maura J. Nicholson

Deputy Chief, International Operations Division
USCIS/Refugee, Asylum & International Operations

Shirk, Georgette L

From: Ruppel, Joanna
Sent: Saturday, January 28, 2017 2:56 PM
To: Scialabba, Lori L; Walters, Jessica S; Renaud, Tracy L
Cc: Lafferty, John L; Strack, Barbara L; Nicholson, Maura J; Kim, Ted H; Stone, Mary M
Subject: RE: questions for call at 4:00

Wasn't sure that had been confirmed about LRPs. Got it.

Joanna Ruppel
Chief, International Operations Division
USCIS Refugee, Asylum and International Operations Directorate

[redacted] (b)(6)

From: Scialabba, Lori L
Sent: Saturday, January 28, 2017 3:56 PM
To: Ruppel, Joanna; Walters, Jessica S; Renaud, Tracy L
Cc: Lafferty, John L; Strack, Barbara L; Nicholson, Maura J; Kim, Ted H; Stone, Mary M
Subject: RE: questions for call at 4:00

If LPRs can't travel back with their card I don't think these folks can.

From: Ruppel, Joanna
Sent: Saturday, January 28, 2017 3:54:33 PM
To: Scialabba, Lori L; Walters, Jessica S; Renaud, Tracy L
Cc: Lafferty, John L; Strack, Barbara L; Nicholson, Maura J; Kim, Ted H; Stone, Mary M
Subject: RE: questions for call at 4:00

One more. Sorry.

From: Ruppel, Joanna
Sent: Saturday, January 28, 2017 3:51 PM
To: Scialabba, Lori L; Walters, Jessica S; Renaud, Tracy L
Cc: Lafferty, John L; Strack, Barbara L; Nicholson, Maura J; Kim, Ted H; Stone, Mary M
Subject: questions for call at 4:00
Importance: High

All,

I am still trying to get you a list of questions in a more coordinate way for Monday morning, but some of the more time-sensitive for your call at 4:00 (if you get this in time), given we need to get guidance out to staff around the world by tomorrow night.

1. Does the suspension apply to processing affirmative asylum applications filed by individuals from the countries on the list? [We are prepared to send out a message to suspend issuance of any final decisions and interviews for now]
2. Can USCIS continue to interview refugees who are religious-based minorities or should we cancel all scheduled interviews at this time?
3. Can USCIS continue to process following-to-join (I-730) applications for asylee family members from countries not on the list (e.g., China)? [State's guidance to consular officers is to continue processing those. We have not issued any yet.]
4. Should we stop issuing travel documents to those on the list who are LPRs whose green cards have been lost or stolen?

Thanks,

Joanna

Joanna Ruppel
Chief, International Operations Division
USCIS Refugee, Asylum and International Operations Directorate

[Redacted]
(b)(6)

Shirk, Georgette L

From: Groom, Molly M
Sent: Friday, February 03, 2017 8:06 AM
To: Scialabba, Lori L; Ruppel, Joanna; Strack, Barbara L
Cc: Renaud, Tracy L
Subject: RE: Returning refugees still no-boards

I got their legal shop on board and to provide the CBP operator's guidance. I believe that guidance is being implemented. This just means that returning refugees and asylees should not need waivers unless they are from 1 of the 7 countries.

From: Scialabba, Lori L
Sent: Friday, February 03, 2017 9:02:07 AM
To: Ruppel, Joanna; Strack, Barbara L
Cc: Renaud, Tracy L; Groom, Molly M
Subject: RE: Returning refugees still no-boards

Reading this again. Do you mean Molly just worked it out?

From: Ruppel, Joanna
Sent: Friday, February 03, 2017 8:53:44 AM
To: Scialabba, Lori L; Strack, Barbara L
Cc: Renaud, Tracy L; Groom, Molly M
Subject: RE: Returning refugees still no-boards

Lori,

We understand Molly had worked this out with OGC and CBP and CBP's guidance is being updated, accordingly. They should not need exemptions.

Joanna

Joanna Ruppel
Chief, International Operations Division
U.S. Citizenship and Immigration Services

(b)(6)

From: Scialabba, Lori L
Sent: Friday, February 03, 2017 5:50:25 AM
To: Ruppel, Joanna; Strack, Barbara L

Cc: Renaud, Tracy L
Subject: FW: Returning refugees still no-boards

FYI

From: Higgins, Jennifer
Sent: Friday, February 03, 2017 8:49:11 AM
To: Scialabba, Lori L
Subject: RE: Returning refugees still no-boards

I would talk with Patrick Flanagan to discuss the process. The waiver has been delegated down but I think you'd want to coordinate in advance for these given that children are involved.

From: Scialabba, Lori L
Sent: Thursday, February 02, 2017 9:33:17 PM
To: Higgins, Jennifer
Subject: RE: Returning refugees still no-boards

Well he sent me contacts. Do you think people can ask for a waiver? I'm not sure what the process is here.

From: Higgins, Jennifer
Sent: Thursday, February 02, 2017 8:56:44 PM
To: Scialabba, Lori L
Subject: RE: Returning refugees still no-boards

Did Kevin respond?

From: Scialabba, Lori L
Sent: Wednesday, February 01, 2017 6:13:15 PM
To: MCALEENAN, KEVIN K
Subject: FW: Returning refugees still no-boards

Kevin,

We are being told that refugees or who entered the U.S. as a refugee before the EO, then traveled outside of the country with a refugee travel document are not being permitted to board for return flights. Same situation for person granted asylum in the U.S. Not just the 7 identified countries but all people in this situation. Ex. There could be an asylee from China who travels to the U.K. for business or to attend a conference who can now not get back into the country. Just wondering if this was vetted with DHS and we're sure this is the intent of the EO.

I would not be surprised if the answer is yes since IVs from the 7 countries can't travel but I'm not sure the intent was to apply this to refugees or asylees from other countries who are traveling on a refugee document, which means we've already accepted them into the U.S. as a refugee or asylee.

Let me know.

Thanks,

Shirk, Georgette L

From: Ruppel, Joanna
Sent: Monday, January 30, 2017 5:15 PM
To: Scialabba, Lori L; Renaud, Tracy L
Cc: Walters, Jessica S; Young, Todd P; Strack, Barbara L; Stone, Mary M; Nicholson, Maura J; Kliska, Jennifer R
Subject: Updates on refugee process and EO

Lori and Tracy,

Just wanted to get you the latest info, some of which may be helpful to send up to the Department. RAIO has established a daily call with PRM and below is what we learned on today's call. Also, we will be setting up a couple working groups with PRM (more to come on that later):

Exemptions:

- Barbara had already alerted you when we met this morning, but PRM noted that there were a few people who should have been on the list of 872 scheduled to travel through Feb 2, but were inadvertently left off. PRM is preparing a request for an exemption for these. In addition, some on the list were not permitted to board flights (mostly not permitted by CBP, a couple by the airlines) and now may not be able to travel by the 2nd. PRM is working with CBP on those and hopes they do not have to request another exemption at the Secretary level. [Note: may be helpful if you alert the Department to help pave the way]
- PRM has been pro-actively reaching out to CBP and airlines to alert them when people are going to travel, given the problems several have had boarding.
- PRM is going to work on categories for potential exemptions, to include Iranians in Vienna (as we know), Iraqi P-2s, among others. They will run it by us.
- PRM and RAIO will establish a working group to work on a proposed exemption process.

Pipeline:

- PRM believes there are enough people in the pipeline to meet the 50,000 this year without interviews of new cases, but we also need to have people in the pipeline for admissions next year. PRM is going to do some analysis of this. Much depends on who in the pipeline will be able to come in under the guidance in the E.O., either as an exemption or once admissions resume. We may need to reinterview some people in the pipeline, depending on what guidance results from the EO.

Interviews scheduled for Q2:

- PRM has the pen to draft a message to the RSCs letting them know that all Q2 circuit rides are being reviewed in light of the EO and it is likely they will be postponed/cancelled while we focus on exemption cases and pipeline cases that require reinterview in light of new guidance.
- We have cancelled refugee interviews in Moscow for the this week and next, including Lautenberg, in an exercise of caution, as additional guidance may be coming on type of info we need to solicit in the interviews.

Please let me know if you have questions/concerns.

Joanna

Joanna Ruppel
Acting Associate Director
USCIS Refugee, Asylum and International Operations Directorate



(b)(6)

Shirk, Georgette L

From: Ruppel, Joanna
Sent: Friday, February 03, 2017 11:21 AM
To: Scialabba, Lori L; Renaud, Tracy L
Cc: Strack, Barbara L; Stone, Mary M; Nicholson, Maura J; Kliska, Jennifer R; Farnam, Julie E; Walters, Jessica S; Young, Todd P; Alfonso, Angelica M; Grammer, Alexandra C; Palmer, Ann M
Subject: Proposed message to RAIO staff on Q2 refugee processing

Lori and Tracy,

We have been working with PRM on the message they need to send to the RSCs and the message we need to send our staff regarding Q2 refugee circuit ride planning. We all agree that the existing plans are no longer relevant, so the RSCs, IO and RAD staff need to pivot to cancel plans and allocate resources elsewhere – temporarily. Any objections to our sending the message below, which parallels the message PRM is sending out to RSCs today?

Dear RAIO staff – As you know, last week we made the decision to temporarily suspend departures for both RAD and IO circuit rides until February 15. We also temporarily suspended refugee interviews at all international field offices. Following further consultations with PRM, we have jointly decided that the remaining 2nd quarter circuit ride and USCIS international field office interview schedule will be completely revised. PRM is instructing the RSCs to cancel this quarter's USCIS circuit rides and field office interviews at this time.

RAIO will be working with PRM in coming weeks and months to discuss when circuit rides and field office interviews will resume and to identify any interviews that will be needed to reach this year's revised goal of 50,000 admissions, as well as the FY18 ceiling, which has not yet been determined. At this time, we do not have any information to share on 3rd and 4th quarter circuit rides or field office processing, but we will continue to share additional information as it becomes available.

Joanna

Joanna Ruppel
Acting Associate Director
USCIS Refugee, Asylum and International Operations Directorate

(b)(6)

Shirk, Georgette L

From: Nicholson, Maura J
Sent: Sunday, February 05, 2017 3:05 PM
To: Ruppel, Joanna
Subject: RE: Effect of EO

Agreed for IO.

From: Ruppel, Joanna
Sent: Sunday, February 05, 2017 4:01:41 PM
To: Busch, Philip B; Neufeld, Donald W; Renaud, Daniel M; Rosenberg, Ronald M (Ron); Meckley, Tammy M
Cc: Groom, Molly M; Renaud, Tracy L; Nicholson, Maura J; Lafferty, John L; Kim, Ted H
Subject: RE: Effect of EO

I cannot think of any adjudicative action without RAIO as described below. We simply put cases on hold and cancelled refugee circuit rides and in office refugee interviews.

John and Ted, can you confirm that no discretionary denials or otherwise were taken for asylum?

Thanks

Joanna

Joanna Ruppel
Chief, International Operations Division
U.S. Citizenship and Immigration Services

[redacted] (b)(6)

From: Busch, Philip B
Sent: Sunday, February 05, 2017 12:52:27 PM
To: Neufeld, Donald W; Renaud, Daniel M; Ruppel, Joanna; Rosenberg, Ronald M (Ron); Meckley, Tammy M
Cc: Groom, Molly M; Renaud, Tracy L
Subject: Effect of EO

[redacted] (b)(5)

Thanks very much, Phil

Shirk, Georgette L

From: Ruppel, Joanna
Sent: Sunday, January 29, 2017 11:15 AM
To: Scialabba, Lori L
Subject: RE: EO implementation

Much appreciated. Thanks!!!

From: Scialabba, Lori L
Sent: Sunday, January 29, 2017 12:10 PM
To: Ruppel, Joanna; Strack, Barbara L; Stone, Mary M
Cc: Renaud, Tracy L; Nicholson, Maura J; Hatchett, Dolline L; Alfonso, Angelica M; Walters, Jessica S; Young, Todd P
Subject: RE: EO implementation

Yes cancel South Africa.

From: Ruppel, Joanna
Sent: Sunday, January 29, 2017 12:05:37 PM
To: Scialabba, Lori L; Strack, Barbara L; Stone, Mary M
Cc: Renaud, Tracy L; Nicholson, Maura J; Hatchett, Dolline L; Alfonso, Angelica M; Walters, Jessica S; Young, Todd P
Subject: RE: EO implementation

OK. Will get you what is still scheduled for Q2 aside from what is ongoing now. Just to confirm, and here is the consolidated list for interviews for this coming week and the actions we plan on taking, until we get any further guidance. Would very much appreciate confirmation on plan of action and answer to question below:

Vienna: We will continue with interviews

Indonesia: We will continue with all interviews

Moscow: Where someone may already be in transit, we intend to continue with the interview if the individual was a Lautenberg or other religious minority, even though we are all still awaiting guidance on how the religious minority exception may be defined. For those other P1s, we intend to collect prints and inform them of the suspension, but not conduct an interview. We don't want to continue interviewing if we may have to do reinterviews later based on a new or amended approach to processing.

New Delhi: Same as above with respect to religious minorities

Also, we would like to cancel all interviews scheduled for the rest of the Circuit Ride in Cape Town, which is mostly Somali. Can we move forward with cancelling? Please confirm.

Thanks,

Joanna

Joanna Ruppel
Acting Associate Director
USCIS Refugee, Asylum and International Operations

(b)(6)

From: Scialabba, Lori L
Sent: Sunday, January 29, 2017 12:00 PM
To: Ruppel, Joanna; Strack, Barbara L; Stone, Mary M
Cc: Renaud, Tracy L; Nicholson, Maura J; Hatchett, Dolline L; Alfonso, Angelica M; Walters, Jessica S; Young, Todd P
Subject: RE: EO implementation

Whatever we have already scheduled.

Go ahead with the interviews that you are recommending we keep. I already told DHS we are going ahead with Vienna. The one issue we might have is after the review of the process if we are adding anything to vetting or interviewing you may have to revisit the cases you are now interviewing.

From: Ruppel, Joanna
Sent: Sunday, January 29, 2017 11:35:49 AM
To: Scialabba, Lori L; Strack, Barbara L; Stone, Mary M
Cc: Renaud, Tracy L; Nicholson, Maura J
Subject: RE: EO implementation

Lori,

We are working with RAD to provide you a consolidated response to questions below. We need clarification from you on question #3. Are you seeking all Circuit Rides scheduled for Q2?

Joanna

Joanna Ruppel
Acting Associate Director
USCIS Refugee, Asylum and International Operations

[redacted] (b)(6)

From: Scialabba, Lori L
Sent: Sunday, January 29, 2017 9:42 AM
To: Strack, Barbara L; Ruppel, Joanna; Stone, Mary M
Cc: Renaud, Tracy L; Scialabba, Lori L
Subject: EO implementation

Barbara/Joanna,

I need some information.

1. How many refugees are travel ready and by that I mean we've completed everything and they could get on a plane. I want a breakdown by nationality.

2. I know you already did it but give me a list of where we are on circuit rides right now, how many officers, and what the populations look like.

South Africa - Sudanese/Somalis, team of 4

Malaysia (sp) - Rohingya team of 4?

Make corrections where I have things wrong.

3. Scheduled circuit rides coming up with the same information.
4. Can we get an RSO assessment on places we would normally go that may be dangerous after this announcement. Baghdad, Turkey, Egypt, Jordan, etc. Get me a completely list of where you think that is necessary. I don't think we will be going anywhere but having the information will be helpful.
5. IF we are only admitting 50,000 refugees do we need to do more circuit rides to reach that number. Keep in mind we may not be admitting anyone or very few people from the 7countries.
6. Please get me the number of I730s we have ready to interview or have interviewed that could travel. Break it down that way with nationalities. I also need it broken down by Asylum vs Refugee following to join.

I know this is a tall order. I have a call at 4 and would appreciate anything you can get me by then.

Also, if you have any suggestions on how to handle case by case reviews (you'll need to have something that represents additional vetting) let me have that to run up the chain. If we can get that cleared we might be able to move ahead with some case by case review.

Sorry for the fire drill on a Sunday especially when we had one on Saturday too.

Thanks,
Lori

Shirk, Georgette L

From: Ruppel, Joanna
Sent: Saturday, January 28, 2017 1:00 PM
To: Lafferty, John L; Nicholson, Maura J; Strack, Barbara L; Kim, Ted H; Stone, Mary M
Subject: RE: Executive Order: PROTECTING THE NATION FROM FOREIGN TERRORIST ENTRY INTO THE UNITED STATES - Service Center Instructions

I do think it would be good to hold off issuing final decisions and interviewing individuals from those nationalities, but let's hold off issuing that guidance until tomorrow. You can flag to your directors that guidance is coming, so they know to watch for it. I would like to get a list of questions up to Lori and Tracy today of questions that need immediate decision. Will send list of other questions to Jessica Walters. Will shortly send out info on how I would like to track these questions and get them up.

Joanna

Joanna Ruppel
Chief, International Operations Division
USCIS Refugee, Asylum and International Operations Directorate

[redacted] (b)(6)

From: Lafferty, John L
Sent: Saturday, January 28, 2017 1:07 PM
To: Ruppel, Joanna; Nicholson, Maura J; Strack, Barbara L; Kim, Ted H; Stone, Mary M
Subject: RE: Executive Order: PROTECTING THE NATION FROM FOREIGN TERRORIST ENTRY INTO THE UNITED STATES - Service Center Instructions

A literal reading of the EO and cited INA sections would not indicate that this processing suspension applies to the processing of asylum applications, but I understand why it might be wise to cancel interviews and place on hold cases from the relevant countries while we await additional guidance. Unless you want us to hold off, I will issue such guidance by e-mail today.

From: Ruppel, Joanna
Sent: Saturday, January 28, 2017 11:46:47 AM
To: Nicholson, Maura J; Strack, Barbara L; Lafferty, John L; Kim, Ted H; Stone, Mary M
Subject: FW: Executive Order: PROTECTING THE NATION FROM FOREIGN TERRORIST ENTRY INTO THE UNITED STATES - Service Center Instructions

FYI.

I think we also need guidance on how this applies to asylum. May want to cancel interviews and place in hold asylum applicants from these countries.

I am hoping we can work with the front office to get a memo to all USCIS staff to be issued Monday.

Joanna

Joanna Ruppel
Chief, International Operations Division
U.S. Citizenship and Immigration Services

[Redacted]
(b)(6)

From: Neufeld, Donald W
Sent: Saturday, January 28, 2017 8:37:07 AM
To: Scialabba, Lori L; Renaud, Tracy L; Renaud, Daniel M; Davidson, Andrew J; Meckley, Tammy M; Ruppel, Joanna
Cc: McCament, James W
Subject: FW: Executive Order: PROTECTING THE NATION FROM FOREIGN TERRORIST ENTRY INTO THE UNITED STATES - Service Center Instructions

I just sent this to the centers.

From: Neufeld, Donald W
Sent: Saturday, January 28, 2017 11:35 AM
To: Baran, Kathy A; Campagnolo, Donna P; Crandall, Kristine R; Hazuda, Mark J; McCament, James W; Nolan, Connie L; Richardson, Gregory A; Selby, Cara M (Carrie); Thompson, Kirt; Velarde, Barbara Q; Zuchowski, Laura B; Tamanaha, Emisa T
Cc: Arroyo, Susan K; Bacote, Robert R (Bob); Byrne, Marie L (Louise); Cox, Sophia; Dougherty, Linda M; Douglas, Richard C; Doumani, Stephanie M; Fortes, Michael J; Hartmann, Rosemary M; Hope, Leslie K; Hutchings, Pamela G; Kane, Daniel J; King, Alexander R; La Bella, Magteld H; McCament, James W; McConnell, James E; Moran, Karla; Neufeld, Donald W; Padilla, April Y; Peck, Denis R; Sabga, George M; Thomas, Ronnie D; Watson, Dorcas B (Benita)
Subject: Executive Order: PROTECTING THE NATION FROM FOREIGN TERRORIST ENTRY INTO THE UNITED STATES - Service Center Instructions

Center Directors and Deputies,

On January 27, 2017, the President signed an Executive Order that, in part, relates to the suspension of processing of certain immigration benefits. Section 3(c) of the Executive Order invokes sections 212(f) and 217(a)(12) of the INA to temporarily suspend the entry immigrants and nonimmigrants who are from Syria, Iraq, Iran, Somalia, Yemen, Sudan, and Libya for 90 days from the date of the Executive Order.

While we await further guidance, we must temporarily suspend adjudication of all applications, petitions or requests involving citizens or nationals of the listed countries. At this point there are no exceptions for any form types, to include I-90s or I-765s. Please physically segregate any files that are impacted by this temporary hold pending further guidance. As you would expect, we will be developing a weekly report format for you to identify the number and types of cases on hold.

We expect to issue more detailed guidance and procedures in the coming days.

Please ensure this guidance is conveyed as soon as possible to all appropriate employees and get back to us with any questions. Also, please reply to let me know each center has received this message.

Thanks,

Don

Shirk, Georgette L

From: Nicholson, Maura J
Sent: Friday, February 03, 2017 3:45 PM
To: Monica, Donald J; Ruppel, Joanna
Cc: Kliska, Jennifer R
Subject: RE: Executive Order and Refugee Processing

Correct. Indonesia will stay the course through CR completion. Thanks!

From: Monica, Donald J
Sent: Friday, February 03, 2017 4:42:07 PM
To: Ruppel, Joanna
Cc: Nicholson, Maura J; Kliska, Jennifer R
Subject: RE: Executive Order and Refugee Processing

Just reconfirming that this does not affect the CR. in process in Indonesia. That continues until it's February 10 conclusion, correct?

From: Ruppel, Joanna
Sent: Friday, February 03, 2017 3:02:21 PM
To: RAIO - ALL1
Subject: Executive Order and Refugee Processing

RAIO Colleagues,

As you know, last week we made the decision to temporarily suspend departures for both the Refugee Affairs Division (RAD) and International Operations (IO) circuit rides until February 15. We also temporarily suspended refugee interviews at all international field offices. Following further consultations with the Department of State Bureau for Population, Refugees and Migration (PRM), we have jointly decided that the remaining 2nd quarter circuit ride and USCIS international field office interview schedule will be completely revised. PRM is instructing the Refugee Support Centers to cancel this quarter's USCIS circuit rides and field office interviews at this time.

RAIO will be working with PRM in coming weeks and months to discuss when circuit rides and field office interviews will resume and to identify any interviews that will be needed to reach this year's revised goal of 50,000 admissions, as well as the FY18 ceiling, which has not yet been determined. At this time, we do not have any information to share on 3rd and 4th quarter circuit rides or field office processing, but we will continue to share additional information as it becomes available.

I would like to encourage you to review the RAIO ECN site that we have begun building to share information with you, as well as to provide a space for questions and collaboration:

2017 Executive Orders

You will find there a place where you may submit questions anonymously. Or, you can identify yourself in case we want to get back to you with any follow up questions to clarify your question. While the site tracks number of "responses," that actually means number of questions. It may take a bit of time, but once we have a number of questions, we will work on posting the questions and responses. Also, something to watch for in the coming weeks is that we will be

seeking your views on certain implementation issues through the feedback section of that ECN site (such as additional information it would be helpful to know when processing a benefit request).

Thank you for your support, flexibility and patience.

Joanna

**Joanna Ruppel
Acting Associate Director
USCIS Refugee, Asylum and International Operations Directorate**

[Redacted] (b)(6)

Shirk, Georgette L

From: Nicholson, Maura J
Sent: Saturday, February 04, 2017 5:10 AM
To: Monica, Donald J; Johnson, Bobbie L; Spalter, Brian M; Ruppel, Joanna; Kliska, Jennifer R; Langlois, Joseph E
Cc: Benedict, Deborah L
Subject: RE: Injunction

Agreed. Thanks, Don.

From: Monica, Donald J
Sent: Saturday, February 04, 2017 12:31:04 AM
To: Nicholson, Maura J; Johnson, Bobbie L; Spalter, Brian M; Ruppel, Joanna; Kliska, Jennifer R; Langlois, Joseph E
Cc: Benedict, Deborah L
Subject: RE: Injunction

Thanks,

In view of the unpredictability of the situation, I'm going to tell the FODs not to reschedule in-office interview for Monday to Wednesday. This should (a) both the RSCs and the from having expectations raised and then dashed if things change again.

From: Nicholson, Maura J
Sent: Saturday, February 04, 2017 12:19:12 AM
To: Monica, Donald J; Johnson, Bobbie L; Spalter, Brian M; Ruppel, Joanna; Kliska, Jennifer R; Langlois, Joseph E
Cc: Benedict, Deborah L
Subject: RE: Injunction

Thanks for flagging, Don. We need to first regroup with RAD and PRM to coordinate approach with respect to CRs and interview schedules in light of the injunction. I expect we'll do so this weekend or certainly on Monday. We may want to first resume arrivals to the US before rescheduling CRs. That may also allow some time for the legal situation to play out. That was one suggestion but we'll discuss options internally and with State and let you know proposed approach as soon as we can.

From: Monica, Donald J
Sent: Friday, February 03, 2017 11:36:24 PM
To: Nicholson, Maura J; Johnson, Bobbie L; Spalter, Brian M; Ruppel, Joanna; Kliska, Jennifer R
Subject: RE: Injunction

The immediate need for us (assuming no stay or other action reverses course), especially in view of the time difference between here and Washington, is whether we try to reschedule CRs. We have one to Sri Lanka that was to begin on Feb 13. We hit a logistical problem and would be short by one officer. No effort was made to fix this because of the EO, but if we are planning to try to go, we'll have to scramble a bit and hope to get a visa for someone asap.

From: Nicholson, Maura J
Sent: Friday, February 03, 2017 10:02:42 PM
To: Fatica, Erin K; Johnson, Bobbie L; Langlois, Joseph E; Lassen, Brett H; Monica, Donald J; Spalter, Brian M
Subject: Injunction

DDs/DDDs,

Wanted to ensure you've seen the news that a Seattle judge issued an injunction blocking enforcement of key elements of the Administration's 1/27 EO. CBP has begun operating at pre-EO business as usual at ports. I expect guidance will be forthcoming for us soon.

Stay tuned.

Maura

Shirk, Georgette L

From: Ruppel, Joanna
Sent: Friday, February 03, 2017 1:37 PM
To: Scialabba, Lori L; Strack, Barbara L
Cc: Renaud, Tracy L; Groom, Molly M
Subject: RE: Returning refugees still no-boards

OK. We will need to let people know today that they cannot travel, if that is the position.

Joanna Ruppel
Acting Associate Director
USCIS Refugee, Asylum and International Operations Directorate

[redacted] (b)(6)

From: Scialabba, Lori L
Sent: Friday, February 03, 2017 1:56 PM
To: Ruppel, Joanna; Strack, Barbara L
Cc: Renaud, Tracy L; Groom, Molly M
Subject: RE: Returning refugees still no-boards

Let's talk when I get back from the NAC. 4:30ish?

From: Ruppel, Joanna
Sent: Friday, February 03, 2017 9:14:37 AM
To: Scialabba, Lori L; Strack, Barbara L
Cc: Renaud, Tracy L; Groom, Molly M
Subject: RE: Returning refugees still no-boards

CAM parolees traveling with the refugees that got waivers did not need waivers and just traveled with them. We are now in the situation as of yesterday, that no more CAM refugees are traveling (until we figure out the exemption process). But we have individuals granted parole who have booked travel as soon as Monday. I think I still have not been able to communicate the issue to you properly, given that the responses do not address the issue (at least as far as I can tell). Can we talk?

Joanna Ruppel
Chief, International Operations Division
U.S. Citizenship and Immigration Services

[redacted] (b)(6)

From: Scialabba, Lori L
Sent: Friday, February 03, 2017 6:06:08 AM

To: Ruppel, Joanna; Strack, Barbara L
Cc: Renaud, Tracy L; Groom, Molly M
Subject: RE: Returning refugees still no-boards

Yes I certainly am.

Back on track now. I talked to Kevin about this at the CTAB. He said he was granting waivers for this group. Molly just sent an email. Let me look at that.

From: Ruppel, Joanna
Sent: Friday, February 03, 2017 9:02:55 AM
To: Scialabba, Lori L; Strack, Barbara L
Cc: Renaud, Tracy L; Groom, Molly M
Subject: RE: Returning refugees still no-boards

Lori, are you confusing the CAM issue with the refugee travel document issue, which appears to be what this chain is about? I can run up and chat as soon as I am in if that would help.

Joanna Ruppel
Chief, International Operations Division
U.S. Citizenship and Immigration Services

[redacted] (b)(6)

From: Scialabba, Lori L
Sent: Friday, February 03, 2017 6:00:55 AM
To: Ruppel, Joanna; Strack, Barbara L
Cc: Renaud, Tracy L; Groom, Molly M
Subject: RE: Returning refugees still no-boards

From what I know you only don't need an exemption if you are traveling with the refugee who had the exemption. If Molly worked something else out I need to know that. And if she did I don't understand your question. They would be able to board the plane wouldn't they?

From: Ruppel, Joanna
Sent: Friday, February 03, 2017 8:53:44 AM
To: Scialabba, Lori L; Strack, Barbara L
Cc: Renaud, Tracy L; Groom, Molly M
Subject: RE: Returning refugees still no-boards

Lori,

We understand Molly had worked this out with OGC and CBP and CBP's guidance is being updated, accordingly. They should not need exemptions.

Joanna

Joanna Ruppel
Chief, International Operations Division
U.S. Citizenship and Immigration Services

[redacted] (b)(6)

From: Scialabba, Lori L
Sent: Friday, February 03, 2017 5:50:25 AM
To: Ruppel, Joanna; Strack, Barbara L
Cc: Renaud, Tracy L
Subject: FW: Returning refugees still no-boards

FYI

From: Higgins, Jennifer
Sent: Friday, February 03, 2017 8:49:11 AM
To: Scialabba, Lori L
Subject: RE: Returning refugees still no-boards

I would talk with Patrick Flanagan to discuss the process. The waiver has been delegated down but I think you'd want to coordinate in advance for these given that children are involved.

From: Scialabba, Lori L
Sent: Thursday, February 02, 2017 9:33:17 PM
To: Higgins, Jennifer
Subject: RE: Returning refugees still no-boards

Well he sent me contacts. Do you think people can ask for a waiver? I'm not sure what the process is here.

From: Higgins, Jennifer
Sent: Thursday, February 02, 2017 8:56:44 PM
To: Scialabba, Lori L
Subject: RE: Returning refugees still no-boards

Did Kevin respond?

From: Scialabba, Lori L
Sent: Wednesday, February 01, 2017 6:13:15 PM
To: MCALEENAN, KEVIN K
Subject: FW: Returning refugees still no-boards

Shirk, Georgette L

From: Emrich, Matthew D
Sent: Thursday, February 02, 2017 9:53 AM
To: Kerns, Kevin J; Farnam, Julie E; Renaud, Daniel M; Valverde, Michael; Young, Todd P; Walters, Jessica S; Neufeld, Donald W; McCament, James W; Levine, Laurence D; Nicholson, Maura J; Ruppel, Joanna; Lafferty, John L; Strack, Barbara L; Meckley, Tammy M; Mayhew, Michael X; Davidson, Andrew J; Hawkins, Donald K; Groom, Molly M; Busch, Philip B; Alfonso, Angelica M; Risch, Carl C; Symons, Craig M; Melero, Mariela; Rosenberg, Ronald M (Ron); Hatchett, Dolline L; Patching, Laura D; Chiorazzi, Anne; Zengotitabengoa, Colleen R; Perry-Elby, Diana D; Borgen, Michael R; Kovarik Nuebel, Kathy; DeStefano, Ernest; Anderson, Erik C; Campagnolo, Donna P; Thomas, Ronnie D; Swanson, Toni; Kovarik Nuebel, Kathy; Nicholson, Maura J
Subject: RE: EO Tasking on Information for Adjudications--Due COB 2/2

EURODAC stands for European Dactyloscopy.

From: Kerns, Kevin J
Sent: Thursday, February 02, 2017 10:51 AM
To: Farnam, Julie E; Renaud, Daniel M; Valverde, Michael; Young, Todd P; Walters, Jessica S; Neufeld, Donald W; McCament, James W; Levine, Laurence D; Nicholson, Maura J; Ruppel, Joanna; Lafferty, John L; Strack, Barbara L; Meckley, Tammy M; Mayhew, Michael X; Emrich, Matthew D; Davidson, Andrew J; Hawkins, Donald K; Groom, Molly M; Busch, Philip B; Alfonso, Angelica M; Risch, Carl C; Symons, Craig M; Melero, Mariela; Rosenberg, Ronald M (Ron); Hatchett, Dolline L; Patching, Laura D; Chiorazzi, Anne; Zengotitabengoa, Colleen R; Perry-Elby, Diana D; Borgen, Michael R; Kovarik Nuebel, Kathy; DeStefano, Ernest; Anderson, Erik C; Campagnolo, Donna P; Thomas, Ronnie D; Swanson, Toni; Kovarik Nuebel, Kathy; Nicholson, Maura J
Subject: RE: EO Tasking on Information for Adjudications--Due COB 2/2

I think all this falls in three main areas:

- verification of the person's identity (biometrics, DNA)
- verification of their history (documentation/histories)
- improved interoperability nationally and internationally as the facilitator to the above two items

There may be multiple ways to achieve this, but rather than give them a list of eaches they may or may not remember as this list evolves, I'd point to the big three and use the eaches as examples.

And because I'm a bureaucrat extraordinaire—spell out EURODAC and use something more precise for “ping.” (and no Ron, “pong” is not what I’m thinking.”)

Kevin J. Kerns
Acting Associate Director
Management Directorate
US Citizenship and Immigration Services

(b)(6)

From: Farnam, Julie E
Sent: Wednesday, February 01, 2017 10:04 PM
To: Renaud, Daniel M; Valverde, Michael; Young, Todd P; Walters, Jessica S; Neufeld, Donald W; McCament, James W; Levine, Laurence D; Nicholson, Maura J; Ruppel, Joanna; Lafferty, John L; Strack, Barbara L; Meckley, Tammy M; Mayhew, Michael X; Emrich, Matthew D; Davidson, Andrew J; Hawkins, Donald K; Groom, Molly M; Busch, Philip B; Alfonso, Angelica M; Risch, Carl C; Symons, Craig M; Melero, Mariela; Rosenberg, Ronald M (Ron); Hatchett, Dolline L;

Patching, Laura D; Chiorazzi, Anne; Zengotitabengoa, Colleen R; Perry-Elby, Diana D; Kerns, Kevin J; Borgen, Michael R; Kovarik Nuebel, Kathy; DeStefano, Ernest; Anderson, Erik C; Campagnolo, Donna P; Thomas, Ronnie D; Swanson, Toni; Kovarik Nuebel, Kathy; Nicholson, Maura J

Subject: EO Tasking on Information for Adjudications--Due COB 2/2

Attached is the first cut of information we'd want from other countries to assist in our adjudications process based on the conversation we had this afternoon. For this tasking we just need a list that SCO can incorporate into the larger report they are drafting for this deliverable. Because the final report needs to be provided to the WH within 30 days, please provide any comments/edits/additions by COB tomorrow, February 2, 2017.

Thank you,
Julie Farnam
Senior Advisor
Field Operations Directorate
U.S. Citizenship and Immigration Services

[Redacted]
(b)(6)

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Shirk, Georgette L

From: Farnam, Julie E
Sent: Wednesday, February 01, 2017 9:04 PM
To: Renaud, Daniel M; Valverde, Michael; Young, Todd P; Walters, Jessica S; Neufeld, Donald W; McCament, James W; Levine, Laurence D; Nicholson, Maura J; Ruppel, Joanna; Lafferty, John L; Strack, Barbara L; Meckley, Tammy M; Mayhew, Michael X; Emrich, Matthew D; Davidson, Andrew J; Hawkins, Donald K; Groom, Molly M; Busch, Philip B; Alfonso, Angelica M; Risch, Carl C; Symons, Craig M; Melero, Mariela; Rosenberg, Ronald M (Ron); Hatchett, Dolline L; Patching, Laura D; Chiorazzi, Anne; Zengotitabengoa, Colleen R; Perry-Elby, Diana D; Kerns, Kevin J; Borgen, Michael R; Kovarik Nuebel, Kathy; DeStefano, Ernest; Anderson, Erik C; Campagnolo, Donna P; Thomas, Ronnie D; Swanson, Toni; Kovarik Nuebel, Kathy; Nicholson, Maura J
Subject: EO Tasking on Information for Adjudications--Due COB 2/2
Attachments: Information from Foreign Governments.doc

Attached is the first cut of information we'd want from other countries to assist in our adjudications process based on the conversation we had this afternoon. For this tasking we just need a list that SCO can incorporate into the larger report they are drafting for this deliverable. Because the final report needs to be provided to the WH within 30 days, please provide any comments/edits/additions by COB tomorrow, February 2, 2017.

Thank you,
Julie Farnam
Senior Advisor
Field Operations Directorate
U.S. Citizenship and Immigration Services

(b)(6)

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-DRAFT-

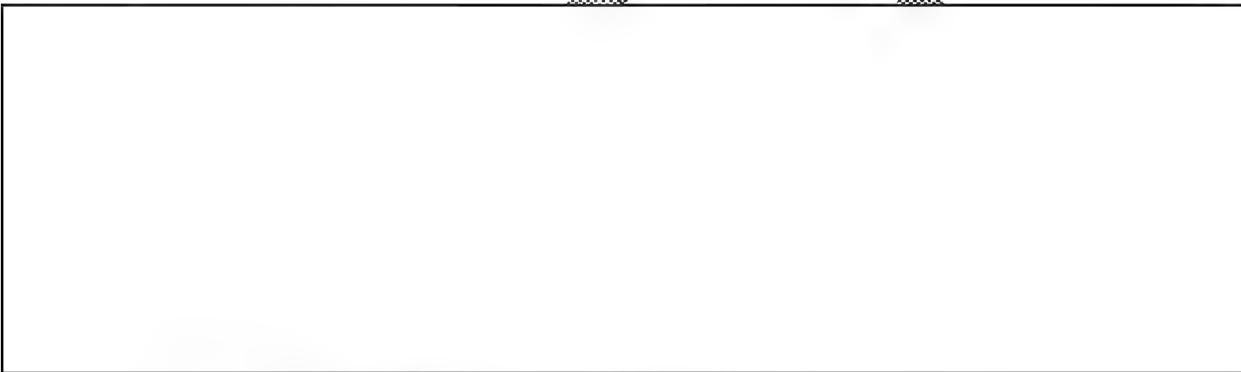
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of the Director
Washington, DC 20529



**U.S. Citizenship
and Immigration
Services**

Consolidated Response to Executive Order: Protecting the Nation from Foreign Terrorist Entry into the United States Section 3(a) ("information needed from any country to adjudicate any visa, admission or other benefit under the INA (adjudications) in order to determine that the individual seeking the benefit is who the individual claims to be and is not a security or public-safety threat")

(b)(7)(e)



- Increased information on family tree or relative information
-
- Certifications of certain documents by foreign governments
-

Related, but not exclusive to information from foreign governments or other countries:

(b)(7)(e)

- A clearinghouse of official documents issued in the U.S. by local/state municipalities
- Better interoperability between DHS, DOS, and NTC systems
- More DHS resources outside the U.S. to complete overseas verification requests

-DRAFT-
- FOR OFFICIAL USE ONLY -

www.uscis.gov

Shirk, Georgette L

From: Schwartz, Claudia R
Sent: Sunday, January 29, 2017 7:53 PM
To: Croizat, Jessika S; Perry-Elby, Diana D
Subject: FW: Executive Order

Please join me for a call with Brandon and Kathryn at 9:30am if poss. Ideally we can talk by phone before hand.

From: Prelogar, Brandon B
Sent: Sunday, January 29, 2017 9:34:04 PM
To: Anderson, Kathryn E; Schwartz, Claudia R
Subject: RE: Executive Order

Works for me.

From: Anderson, Kathryn E
Sent: Sunday, January 29, 2017 3:48:37 PM
To: Schwartz, Claudia R
Cc: Prelogar, Brandon B
Subject: RE: Executive Order

Yep. Great. Thanks. I'll give you a call then.

From: Schwartz, Claudia R
Sent: Sunday, January 29, 2017 3:38:56 PM
To: Anderson, Kathryn E
Cc: Prelogar, Brandon B
Subject: RE: Executive Order

Thanks Kathryn - let's talk by phone at 9:30 tomorrow? I will share this in my office as well re:entry. Thank you!

From: Anderson, Kathryn E
Sent: Sunday, January 29, 2017 6:33:13 PM
To: Schwartz, Claudia R
Cc: Prelogar, Brandon B
Subject: FW: Executive Order

Hi, Claudia,

Wanted to flag for you FOD's question in the chain below and in the attached matrix regarding whether to adjudicate TRIG hold cases in light of the EO's directive to "consider rescinding" the TRIG exemptions, as FOD (reasonably) suggests that new exemptions are unlikely. Not sure exactly how all these issues will shake out or be discussed next week, but

just wanted to share that it may be part of the discussion. My thoughts [here](#). Brandon also made a good point that we need to make sure people understand that nothing in the EO prevents continuing to apply the existing exemptions.

Also, wondering whether once it's decided if we can grant natz cases at all, we should make another push with Lori to apply the exemptions to those cases while we still have them – as discussed in the WG meeting, as an application of a legal interpretation, not a policy change.

Finally, was curious whether you knew if OCC has arrived at an interpretation of what "entry" means, as used in the EO and in the context of INA 212(f), for the purposes of deciding what USCIS adjudications can go forward? We've heard most FOD, SCOPS, and RAIO adjudications from the 7 countries are currently on hold pending further guidance.

Wondered whether this is precautionary at this point or if it's based on OCC's legal interpretation of the order. More [here](#).

K

From: Anderson, Kathryn E

Sent: Sunday, January 29, 2017 7:51 AM

To: Cummings, Kevin J; Levine, Laurence D; Deshommes, Samantha L; Beveridge, Jennifer L (Jenna); Dunn, Maureen A; Hamilton, Cristina A; Lee, Robert E; Parascandola, Ciro A; Phillips, Mark; Prelogar, Brandon B; Rather, Michael B; Rigdon, Jerry L; Silwany, Oscar Y; Tynan, Natalie S

Subject: RE: Executive Order

I'll look more closely at the chart, but upon first glance and after reading the chain below, I wanted to raise a couple things:

(b)(5)



(c) To temporarily reduce investigative burdens on relevant agencies during the review period described in subsection (a) of this section, to ensure the proper review and maximum utilization of available resources for the screening of foreign nationals, and to ensure that adequate standards are established to prevent infiltration by foreign terrorists or criminals, pursuant to section 212(f) of the INA, 8 U.S.C. 1182(f), I hereby proclaim that the immigrant and nonimmigrant entry into the United States of aliens from countries referred to in section 217(a)(12) of the INA, 8 U.S.C. 1187(a)(12), would be detrimental to the interests of the United States, and I hereby suspend entry into the United States, as immigrants and nonimmigrants, of such persons for 90 days from the date of this order (excluding those foreign nationals traveling on diplomatic visas, North Atlantic Treaty Organization visas, C-2 visas for travel to the United Nations, and G-1, G-2, G-3, and G-4 visas).

2. FOD has raised a question of whether TRIG hold cases should be adjudicated, indicating that the EO's directive in Section 6 to "consider rescinding" TRIG exemptions would seem to mean that new TRIG exemptions are not forthcoming. This should certainly be a question for discussion (and a reconsideration of the agency's hold policy).

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Kathryn

Kathryn Anderson

Acting Chief, International and Humanitarian Affairs Division
Office of Policy and Strategy, U.S. Citizenship and Immigration Services
Department of Homeland Security

[redacted] (b)(6)

From: Renaud, Daniel M
Sent: Saturday, January 28, 2017 12:34:16 PM
To: Walters, Jessica S
Cc: Neufeld, Donald W; Ruppel, Joanna; Young, Todd P; Slattery, Shannon E; Valverde, Michael; Levine, Laurence D; Groom, Molly M
Subject: FW: Executive Order

FOD will be using the attached matrix to help identify questions and track implementation timelines. You may find it useful as well as we identify questions, develop guidance, and implementation plans.

Daniel M. Renaud
Associate Director | Field Operations Directorate
U.S. Citizenship and Immigration Services
Department of Homeland Security

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Sent: Saturday, January 28, 2017 12:16:07 PM
To: Valverde, Michael; Renaud, Daniel M
Cc: Farnam, Julie E; Kvortek, Lisette E
Subject: RE: Executive Order

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I am working to convert this to Excel over the weekend so it's a little more scalable, but wanted to pass it on for initial use.

Please let me know if you have any questions or see anything that needs editing.

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DHS USCIS
Field Operations Directorate, Deputy Associate Director

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U.S. Citizenship and Immigration Services
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US Citizenship & Immigration Services
Department of Homeland Security

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We are working on further guidance and of course will coordinate with SCOP.

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Chief, International Operations Division
U.S. Citizenship and Immigration Services

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Subject: RE: Executive Order

O.K. Take Jennifer off the email chains. Don, I want one document with all your issues. Same goes for Dan, Joanna/Barbara and Matt/Andrew. We'll start regular meetings next week.

Lori

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Cc: Renaud, Tracy L; McCament, James W

Subject: RE: Executive Order

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Cc: Renaud, Tracy L; McCament, James W

Subject: RE: Executive Order

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Subject: RE: Executive Order

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Daniel M. Renaud
Associate Director, Field Operations Directorate
Department of Homeland Security | U.S. Citizenship and Immigration Services

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Cc: Renaud, Tracy L; Neufeld, Donald W; Renaud, Daniel M
Subject: FW: Executive Order

(b)(5)

FYI. I think Andrew might be right in terms of what is meant but [redacted]

From: Davidson, Andrew J
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Cc: Neufeld, Donald W; Renaud, Daniel M; Scialabba, Lori L
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Thanks,

Andrew Davidson
Acting Deputy Associate Director
Fraud Detection and National Security Directorate
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security
111 Massachusetts Avenue, NW
Washington, DC 20529

[REDACTED] (b)(6)

Shirk, Georgette L

From: Schwartz, Claudia R
Sent: Sunday, January 29, 2017 2:40 PM
To: Groom, Molly M
Subject: FW: Executive Order
Attachments: Executive Order PROTECTING THE NATION FROM FOREIGN TERRORIST ENTRY INTOdocx; Congressional research service report January 2017 on 212(f).pdf

From OP&S. Flagging for you.

From: Anderson, Kathryn E
Sent: Sunday, January 29, 2017 6:33:13 PM
To: Schwartz, Claudia R
Cc: Prelogar, Brandon B
Subject: FW: Executive Order

Hi, Claudia,

Wanted to flag for you FOD's question in the chain below and in the attached matrix regarding whether to adjudicate TRIG hold cases in light of the EO's directive to "consider rescinding" the TRIG exemptions, as FOD (reasonably) suggests that new exemptions are unlikely. Not sure exactly how all these issues will shake out or be discussed next week, but just wanted to share that it may be part of the discussion. My thoughts [here!](#) Brandon also made a good point that we need to make sure people understand that nothing in the EO prevents continuing to apply the existing exemptions.

Also, wondering whether once it's decided if we can grant natz cases at all, we should make another push with Lori to apply the exemptions to those cases while we still have them – as discussed in the WG meeting, as an application of a legal interpretation, not a policy change.

Finally, was curious whether you knew if OCC has arrived at an interpretation of what "entry" means, as used in the EO and in the context of INA 212(f), for the purposes of deciding what USCIS adjudications can go forward? We've heard most FOD, SCOPS, and RAIO adjudications from the 7 countries are currently on hold pending further guidance. Wondered whether this is precautionary at this point or if it's based on OCC's legal interpretation of the order. More [here](#).

K

From: Anderson, Kathryn E
Sent: Sunday, January 29, 2017 7:51 AM
To: Cummings, Kevin J; Levine, Laurence D; Deshommes, Samantha L; Beveridge, Jennifer L (Jenna); Dunn, Maureen A; Hamilton, Cristina A; Lee, Robert E; Parascandola, Ciro A; Phillips, Mark; Prelogar, Brandon B; Rather, Michael B; Rigdon, Jerry L; Silwany, Oscar Y; Tynan, Natalie S
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Shannon E. Slattery
Field Operations Directorate | U.S. Citizenship and Immigration Services

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Acting Deputy Associate Director
Fraud Detection and National Security Directorate
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security
111 Massachusetts Avenue, NW
Washington, DC 20529

[redacted]
(b)(6)

Executive Order: PROTECTING THE NATION FROM FOREIGN TERRORIST ENTRY INTO THE UNITED STATES

POLICY: It is the policy of the United States to protect its citizens from foreign nationals who intend to commit terrorist attacks in the United States; and to prevent the admission of foreign nationals who intend to exploit United States immigration laws for malevolent purposes.

GENERAL OBJECTIVES:

- Be vigilant during the visa-issuance process to ensure that those approved for admission do not intend to harm Americans and that they have no ties to terrorism.
- Ensure that those admitted to this country do not bear hostile attitudes toward it and its founding principles
- We cannot, and should not, admit those who do not support the Constitution, or those who would place violent ideologies over American law
- We should not admit those who engage in acts of bigotry or hatred (including "honor" killings, other forms of violence against women, or the persecution of those who practice religions different from their own) or those who would oppress Americans of any race, gender, or sexual orientation

Date conversions	Days from order	Date
	30	2/26
	60	3/28
	90	4/27
	100	5/7
	120	5/27
	180	7/26
	200	8/15

Section	Actor(s)	Action	Purpose	Timeline	Notes	Questions/Comments
Section 3: Suspension of Issuance of Visas and Other Immigration Benefits to Nationals of Countries of Particular Concern						
3a	DHS	In consultation with DOS/DNI	Review	Determine information needed from any country to adjudicate any visa, admission or benefit under the INA in order to determine that the individual seeking the benefit is who the individual claims to be and is not a security or public safety threat.	Immediate	

Section	Actor(s)	Action	Purpose	Timeline	Notes	Questions/Comments
3b	DHS	Report	Information identified in review under 3a	30 days from Jan 27	Report to President Copy to DOS/DNI	
3c	DHS/DOS	Suspend	Admission of immigrants and nonimmigrants from Syria, Iraq, Iran, Somalia, Yemen, Sudan, and Libya	For 90 days from Jan 27	Exclusions: Diplomatic and NATO visas C-2 travel visas (UN) G-1, G-2, G-3, and G-4 visas	<p>1. Are the following forms impacted: N-400s, N-336, I-601A, I-131, I-765, N-565, I-130, ...?</p> <p>2. Should we deschedule oath ceremonies for individuals from the 7?</p> <p>3. How do we handle N-400s 120+ days from interview?</p> <p>4. Should we stop RFEs?</p> <p>5. Should we stop scheduling interviews?</p> <p>6. What about change of status from other NIV categories to NATO visas, C-2 travel visas (UN) and G-1, G-2, G-3, and G-4 visas?</p> <p>7. What about change of status for NIVs for these countries?</p>
3d	DOS	Request	Secretary shall request all foreign governments that do not supply information identified in 3a review to provide such information.	Immediately following report in 3b	Foreign governments will be given 60 days to begin providing information	
3e	DHS	Recommendation	Recommend countries whose foreign nationals would be prohibited entry to the United States due to the country's failure to provide information requested by the U.S. as described in 3d	After 60 day period outlined in 3d	Exclusions: Diplomatic and NATO visas C-2 travel visas (UN) G-1, G-2, G-3, and G-4 visas	*Exception: DHS and DOS may on a case-by-case and when in national interest, issue visas or other immigration benefits to nationals of countries for which visas and benefits are otherwise blocked.
3f	DHS or DOS	Recommendation	Add countries to list of those whose nationals are prohibited from entering the U.S. due to failure to provide information as requested by the U.S. (3d)	After submission of list	Indefinite	
3h	DHS and DOS	Joint Report	Report progress implementing Order	30 days 60 days		

Section	Actor(s)	Action	Purpose	Timeline	Notes	Questions/Comments
4a	DHS/DOS/DNI/FBI	<p>Section 4: Implementing Uniform Screening Standards for All Immigrant Programs</p> <p>Implement Program as part of adjudications process to include development of:</p> <ul style="list-style-type: none"> • Uniform screening standard and procedure, such as interviews • Database • Amended Application Forms • Mechanism • Process • Mechanism <p>To identify individuals seeking to enter US on a fraudulent basis with intent to cause harm, or who are at risk of causing harm subsequent to admission.</p> <ul style="list-style-type: none"> • To identify individuals seeking to enter US on a fraudulent basis with intent to cause harm, or who are at risk of causing harm subsequent to admission. • Capture Identity documents proffered by applicants and prevent duplicate documents from being used by multiple applicants • To add questions aimed at identifying fraudulent answers and malicious intent • To ensure applicant is who the applicant claims to be • To evaluate the applicant's likelihood of becoming a positively contributing member of society and the applicant's ability to make contributions to the national interest • To assess whether or not the applicant has the intent to commit criminal or terrorist acts after entering the U.S. 	<ul style="list-style-type: none"> Initial progress report due within 60 days of Jan 27 	90 days 120 days From Jan 27		<ol style="list-style-type: none"> 1. Do we need to take any actions prior to the "plan" described in section four being developed and implemented? 2. Who is responsible for developing the plan? 3. Might this functionality [database to collect identity documents] already exist and be implemented? 4. Would these [amended application forms] be internal worksheets and not OMB cleared changes to existing forms? 5. [Regarding mechanism to ensure applicant's claimed identity] Beyond existing measures/capabilities? Enhanced data share?

Section	Actor(s)	Action	Purpose	Timeline	Notes	Questions/Comments
4b	DHS/DOS/DNI/FBI	Report		Report progress of initiatives under 4a	Within 60 days, 100 days, 200 days of Jan 27	Report to President
Sec. 5: Realignment of the U.S. Refugee Admissions Program for Fiscal Year 2017.						
5a	DOS	Suspend the USRAP program		For 120 days from Jan 27		
5a	DOS In consultation with DHS/DNI	Review	Review the USRAP application and adjudication process to determine what additional procedures should be taken to ensure that those approved for refugee admission do not pose a threat to the security and welfare of the United States	Within 120 days of Jan 27		
5a	DOS In consultation with DHS/DNS	Implement	Implement procedures identified during review	Within 120 days of Jan 27	Refugee applicants who are already in the USRAP process may be admitted upon the initiation and completion of these revised procedures.	
5a	DOS	Resume USRAP		120 days after order	Limited to nationals of countries for which the DHS/DOS/DNI have jointly determined that such additional procedures are adequate to ensure the security and welfare of the United States	
5b	DOS In consultation with DHS	Prioritize Refugee Claims	Prioritize claims made by individuals on the basis of religious-based persecution.		Individual's religion must be a minority religion in the individual's country of nationality.	
5b	DOS/DHS	Recommend Legislation	To support prioritization of refugee claims as noted immediately above.			
5c	President Exception	Suspend admission of Syrian refugees		Until the president determines sufficient changes have been made to USRAP to ensure admission of Syrian Refugees is consistent with the national interest.	Exception: DHS/DOS have discretion to jointly determine to admit individuals to the United States as refugees on a case-by-case basis only so long as they determine that the admission of such individuals as refugees is in the national interest — including when the person is a religious minority in his country of nationality	

Section	Actor(s)	Action	Purpose	Timeline	Notes	Questions/Comments
					facing religious persecution, when admitting the person would enable the United States to conform its conduct to a preexisting international agreement, or when the person is already in transit and denying admission would cause undue hardship -- and it would not pose a risk to the security or welfare of the United States.	
5d	President	Limit refugee admissions to 50,000 in FY 2017		Until such time as the president determines that additional admissions would be in the national interest		
5f	DOS	Report	Progress of prioritization of claims under 5(b)	Within 100 days and 200 days of Jan 27		
5g	DHS	Determine based on existing law	Extent to which state and local jurisdictions may have greater involvement in the process of determining the placement or resettlement of refugees in their jurisdictions			
5g	DHS	Propose	Plan to involve state/local jurisdictions in refugee resettlement process			
Sec. 6. Rescission of Exercise of Authority Relating to the Terrorism Grounds of Inadmissibility						
6a	DOS/DHS In consultation with AG	Review and consider rescinding	Authorities under INA 212 (g) USC 1182) relating to TRIG and related memoranda	Undefined		1. Should we adjudicate cases in TRIG hold? It doesn't seem like exemptions are forthcoming
Sec. 7. Expedited Completion of the Biometric Entry-Exit Tracking System.						
7a	DHS	Expedite completion and implementation of a biometric entry-exit tracking system for all travelers to the United States			Recommended by the National Commission on Terrorist Attacks Upon the United States	
7b	DHS	Report	Progress on directive in 7a	Within 100 days and 200 days and 365		

Section	Actor(s)	Action	Purpose	Timeline	Notes	Questions/Comments
			days of Jan 27 and every 180 days thereafter until the system is fully deployed and operational.			
Sec. 8. Visa Interview Security. DOS						
8a	DOS	Suspend	Visa Interview Waiver Program	Immediately	Require In-person interview for all individuals seeking a NIV, subject to statutory exceptions	
8b	DOS	Expand	Consular Fellows Program	To extent permitted by law and by available appropriations; substantially increase the number of fellows; lengthening or making the period of service permanent; make language services (FSI) available to expand post options		
Sec. 9. Visa Validity Reciprocity						
	DOS	Review and align	To the extent practicable, ensure visa reciprocity agreements for each visa classification are truly reciprocal. If not reciprocal, adjust the visa validity period, fee schedule, or other treatment to match the treatment of United States nationals by the foreign country.		As applies to validity period and fees, as required by sections 221(c) and 281 of the INA, 8 U.S.C. 1201(c) and 1351, and other treatment	
Sec. 10. Transparency and Data Collection						
10a	DHS In consultation with Attorney General	Collect and Publish Information	Number of foreign nationals in the United States who have been: • charged with terrorism-related offenses while in the United States; • convicted of terrorism-related offenses while in the United States; • removed from the United States based on terrorism-	Within 180 days and every 180 days thereafter	Data since the date of this order or the last reporting period, whichever is later	

Section	Actor(s)	Action	Purpose	Timeline	Notes	Questions/Comments
			<ul style="list-style-type: none"> • related activity, affiliation, or material support to a terrorism-related organization, or any other national security reasons • radicalized after entry into the United States and engaged in terrorism-related acts, or who have provided material support to terrorism-related organizations in countries that pose a threat to the United States • Information regarding the number and types of acts of gender-based violence against women, including honor killings, • any other information relevant to public safety and security, including information on the immigration status of foreign nationals charged with major offenses 			
11b	DOS	Report	Estimated long term costs of USRAP at Federal, State and Local levels	Within one year of Jan 27		

Shirk, Georgette L

From: Schwartz, Claudia R
Sent: Saturday, January 28, 2017 1:58 PM
To: Prelogar, Brandon B
Subject: RE: EO - TRIG

Let's talk Monday morning.

From: Prelogar, Brandon B
Sent: Saturday, January 28, 2017 7:25:26 PM
To: Sohrakoff, Karen A; Anderson, Kathryn E; Schwartz, Claudia R; Perry-Elby, Diana D; Croizat, Jessika S
Subject: RE: EO - TRIG

Thanks, Karen. I share your concern, although I'm somewhat hopeful that the crew of good folks we've worked with on these over the years will be willing to at least put forward a common picture of the basic problem we have been addressing with our exemption endeavors and why it's been consonant with our nat sec interests to pursue them. Clearly, we are going to need a compelling presentation of what this TRIG thing is all about and why it does not make any sense to dismantle it. I hope our ICE and interagency partners will contribute to and help us deliver it to higher ups.

Safe travels!

From: Sohrakoff, Karen A
Sent: Saturday, January 28, 2017 1:15:10 PM
To: Anderson, Kathryn E; Prelogar, Brandon B; Schwartz, Claudia R; Perry-Elby, Diana D; Croizat, Jessika S
Subject: RE: EO - TRIG

I'll be in Texas all of next week, but looking forward to your thoughts on this. I do have a few to share, and could participate in a call on Tuesday or Thursday. Not sure others would necessarily share our views, but a USCIS view would be a good start.

From: Anderson, Kathryn E
Sent: Saturday, January 28, 2017 11:01:43 AM
To: Prelogar, Brandon B; Sohrakoff, Karen A; Schwartz, Claudia R; Perry-Elby, Diana D; Croizat, Jessika S
Subject: RE: EO - TRIG

Agreed. I've been struggling with what the right balance of proactivity to foot dragging is on this, but think I've landed with you - we need to be prepared to put something forward more quickly than others can snatch up the space. I'm back in the office from travel on Wednesday next week.

A little hard to do much relaxing, but will try. You too.

From: Prelogar, Brandon B
Sent: Saturday, January 28, 2017 10:49:15 AM

To: Sohrakoff, Karen A; Schwartz, Claudia R; Perry-Elby, Diana D; Croizat, Jessika S

Cc: Anderson, Kathryn E

Subject: EO - TRIG

We should probably aim to meet early next week to begin formulating a strategy/approach for developing, and then coordinating intra-DHS and interagency, our position and work to satisfy this portion of the EO. We are going to need to put forward a strong and well-thought-out presentation to preserve our hard-fought progress in this arena, and I'd like to be in ready posture for the inevitable directive to follow up on it. Look forward to hearing everyone's thoughts. Hope you all are all enjoying a relaxing weekend.

Shirk, Georgette L

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To: Prelogar, Brandon B; Sohrakoff, Karen A; Anderson, Kathryn E; Perry-Elby, Diana D; Croizat, Jessika S
Subject: RE: EO - TRIG

Yes I agree. I think Chelsea and others will have great examples of real life cases that have been able to be adjudicated - and specifically was thinking that compiling those is crucial. The documents that went into crafting each exemption have sample snippets but I think it would be helpful to include facts that make the cases come fully alive as well.

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Cc: Anderson, Kathryn E

Subject: EO - TRIG

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Shirk, Georgette L

From: Schwartz, Claudia R
Sent: Sunday, January 29, 2017 2:49 PM
To: Groom, Molly M
Subject: RE: Executive Order

Totally agree on NATZ. Thanks - will stay in touch.

From: Groom, Molly M
Sent: Sunday, January 29, 2017 8:48:18 PM
To: Schwartz, Claudia R
Subject: RE: Executive Order

Thanks. They have go ahead to do natz. This will be decided next week-- not sure by whom. I don't think it is wise to revisit the natz issue now. We won't define entry but we are discussing the reach of the EO.

From: Schwartz, Claudia R
Sent: Sunday, January 29, 2017 3:40:12 PM
To: Groom, Molly M
Subject: FW: Executive Order

From OP&S. Flagging for you.

From: Anderson, Kathryn E
Sent: Sunday, January 29, 2017 6:33:13 PM
To: Schwartz, Claudia R
Cc: Prelgar, Brandon B
Subject: FW: Executive Order

Hi, Claudia,

Wanted to flag for you FOD's question in the chain below and in the attached matrix regarding whether to adjudicate TRIG hold cases in light of the EO's directive to "consider rescinding" the TRIG exemptions, as FOD (reasonably) suggests that new exemptions are unlikely. Not sure exactly how all these issues will shake out or be discussed next week, but just wanted to share that it may be part of the discussion. My thoughts here! Brandon also made a good point that we need to make sure people understand that nothing in the EO prevents continuing to apply the existing exemptions.

Also, wondering whether once it's decided if we can grant natz cases at all, we should make another push with Lori to apply the exemptions to those cases while we still have them – as discussed in the WG meeting, as an application of a legal interpretation, not a policy change.

Finally, was curious whether you knew if OCC has arrived at an interpretation of what "entry" means, as used in the EO and in the context of INA 212(f), for the purposes of deciding what USCIS adjudications can go forward? We've heard most FOD, SCOPS, and RAIO adjudications from the 7 countries are currently on hold pending further guidance.

Wondered whether this is precautionary at this point or if it's based on OCC's legal interpretation of the order. More here.

K

From: Anderson, Kathryn E

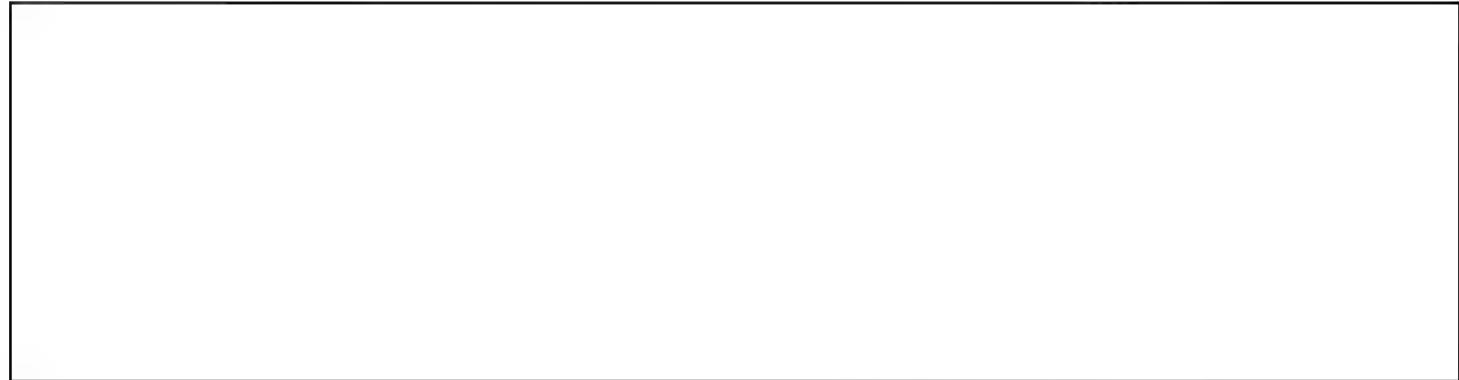
Sent: Sunday, January 29, 2017 7:51 AM

To: Cummings, Kevin J; Levine, Laurence D; Deshommes, Samantha L; Beveridge, Jennifer L (Jenna); Dunn, Maureen A; Hamilton, Cristina A; Lee, Robert E; Parascandola, Ciro A; Phillips, Mark; Prelgar, Brandon B; Rather, Michael B; Rigdon, Jerry L; Silwany, Oscar Y; Tynan, Natalie S

Subject: RE: Executive Order

I'll look more closely at the chart, but upon first glance and after reading the chain below, I wanted to raise a couple things:

(b)(5)



(c) To temporarily reduce investigative burdens on relevant agencies during the review period described in subsection (a) of this section, to ensure the proper review and maximum utilization of available resources for the screening of foreign nationals, and to ensure that adequate standards are established to prevent infiltration by foreign terrorists or criminals, pursuant to section 212(f) of the INA, 8 U.S.C. 1182(f), I hereby proclaim that the immigrant and nonimmigrant entry into the United States of aliens from countries referred to in section 217(a)(12) of the INA, 8 U.S.C. 1187(a)(12), would be detrimental to the interests of the United States, and I hereby suspend entry into the United States, as immigrants and nonimmigrants, of such persons for 90 days from the date of this order (excluding those foreign nationals traveling on diplomatic visas, North Atlantic Treaty Organization visas, C-2 visas for travel to the United Nations, and G-1, G-2, G-3, and G-4 visas).

2. FOD has raised a question of whether TRIG hold cases should be adjudicated, indicating that the EO's directive in Section 6 to "consider rescinding" TRIG exemptions would seem to mean that new TRIG exemptions are not forthcoming. This should certainly be a question for discussion (and a reconsideration of the agency's hold policy has recently been a topic of discussion, even before this order), but nothing in the EO requires us to take this step, and I would urge that it be thoughtfully considered before a decision to adjudicate all TRIG hold cases is made. OCC has also been very involved in the discussion to adjust the TRIG hold policy, and will certainly want to weigh in on this decision also!

Kathryn

Kathryn Anderson
Acting Chief, International and Humanitarian Affairs Division

(b)(6)

From: Renaud, Daniel M
Sent: Saturday, January 28, 2017 12:34:16 PM
To: Walters, Jessica S
Cc: Neufeld, Donald W; Ruppel, Joanna; Young, Todd P; Slattery, Shannon E; Valverde, Michael; Levine, Laurence D; Groom, Molly M
Subject: FW: Executive Order

FOD will be using the attached matrix to help identify questions and track implementation timelines. You may find it useful as well as we identify questions, develop guidance, and implementation plans.

Daniel M. Renaud
Associate Director | Field Operations Directorate
U.S. Citizenship and Immigration Services
Department of Homeland Security

From: Slattery, Shannon E
Sent: Saturday, January 28, 2017 12:16:07 PM
To: Valverde, Michael; Renaud, Daniel M
Cc: Farnam, Julie E; Kvortek, Lisette E
Subject: RE: Executive Order

The attached document is a matrix breaking down the EO into its component parts and action items. I've added columns for QAs and started compiling those I saw come across this morning and some early ones I saw from Div. 1.

The Policy and general objectives language at the beginning pulls key language from the EO for quick reference when we're drafting statements. The date conversion chart indicates the calendar dates associated with any specific timeframe mentioned in the EO.

I am working to convert this to Excel over the weekend so it's a little more scalable, but wanted to pass it on for initial use.

Please let me know if you have any questions or see anything that needs editing.

Thanks,

Shannon E. Slattery
Field Operations Directorate | U.S. Citizenship and Immigration Services

(b)(6)

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From: Valverde, Michael
Sent: Saturday, January 28, 2017 11:42 AM
To: Renaud, Daniel M; Kvortek, Lisette E

Cc: Farnam, Julie E; Slattery, Shannon E

Subject: RE: Executive Order

For section 4, do we need to take any actions prior to the "plan" described in section four being developed and implemented? And who is responsible for developing the plan?

For section 6, should we adjudicate cases in TRIG hold? It doesn't seem like exemptions are forthcoming.

Michael Valverde
DHS USCIS
Field Operations Directorate, Deputy Associate Director

[redacted] (b)(6)

From: Renaud, Daniel M

Sent: Saturday, January 28, 2017 11:34:15 AM

To: Kvortek, Lisette E

Cc: Valverde, Michael; Farnam, Julie E; Slattery, Shannon E

Subject: FW: Executive Order

To start and just on this part of the EO:

1. Are the following forms impacted: N-400s, N-336, I-601A, I-131, I-765, N-565, I-130, ...?
2. Should we deschedule oath ceremonies for individuals from the 7?
3. How do we handle N-400s 120+ days from interview?
4. Should we stop RFEs?
5. Should we stop scheduling interviews?

Daniel M. Renaud
Associate Director | Field Operations Directorate
U.S. Citizenship and Immigration Services
Department of Homeland Security

From: Renaud, Tracy L

Sent: Saturday, January 28, 2017 11:21:12 AM

To: Ruppel, Joanna; Neufeld, Donald W; Scialabba, Lori L; Renaud, Daniel M; Strack, Barbara L; Davidson, Andrew J; Emrich, Matthew D

Cc: McCament, James W; Nicholson, Maura J; Kliska, Jennifer R; Walters, Jessica S

Subject: RE: Executive Order

Everyone should be compiling a list of all of their questions and getting them to Jess so Lori and I have a complete list. If there are URGENT questions that we need answers to before Monday go ahead and flag those for us but I'm not sure the Department is going to get to us immediately, they are likely dealing with issues at the POEs which have a bit more urgency. I did send the question of whether this impact naturalization or not to the Department in an attempt to get an answer this weekend only because we have oath ceremonies scheduled for Monday.

(b)(6)

From: Ruppel, Joanna
Sent: Saturday, January 28, 2017 9:54 AM
To: Neufeld, Donald W; Scialabba, Lori L; Renaud, Daniel M; Higgins, Jennifer; Strack, Barbara L; Davidson, Andrew J; Emrich, Matthew D
Cc: Renaud, Tracy L; McCament, James W; Nicholson, Maura J; Kliska, Jennifer R
Subject: RE: Executive Order

I would also like to flag I-730s. While adjudication does not give status to those outside the US, it does for those inside. Also, since part of the directive is to reviewing to enhance information we collect and screening, we likely will be proposing changes to the I-730 process, to include revisions to the form and the I-730A, which would be completed by the beneficiary. We have mock ups and can move quickly, but need to think first about those in pipeline. Maura has giving directive to staff outside US to cancel pick up document pickups for 730s for next week.

We are working on further guidance and of course will coordinate with SCOP.

State has also issued guidance. Will forward.

Joanna

Joanna Ruppel
Chief, International Operations Division
U.S. Citizenship and Immigration Services

(b)(6)

From: Neufeld, Donald W
Sent: Friday, January 27, 2017 5:34:17 PM
To: Scialabba, Lori L; Renaud, Daniel M; Higgins, Jennifer; Ruppel, Joanna; Strack, Barbara L; Davidson, Andrew J; Emrich, Matthew D
Cc: Renaud, Tracy L; McCament, James W
Subject: RE: Executive Order

I can do that but I think it's the same as what I've mentioned. It would be good to have time to consult with others. Can I get it to you on Monday?

And, in the meantime can I get something to the centers this weekend? I can share a draft email tomorrow.

From: Scialabba, Lori L
Sent: Friday, January 27, 2017 8:04:01 PM
To: Neufeld, Donald W; Renaud, Daniel M; Higgins, Jennifer; Renaud, Daniel M; Ruppel, Joanna; Strack, Barbara L; Davidson, Andrew J; Emrich, Matthew D

Cc: Renaud, Tracy L; McCament, James W
Subject: RE: Executive Order

O.K. Take Jennifer off the email chains. Don, I want one document with all your issues. Same goes for Dan, Joanna/Barbara and Matt/Andrew. We'll start regular meetings next week.

Lori

From: Neufeld, Donald W
Sent: Friday, January 27, 2017 8:00 PM
To: Scialabba, Lori L; Renaud, Daniel M; Higgins, Jennifer
Cc: Renaud, Tracy L; McCament, James W
Subject: RE: Executive Order

For clarity, what would be suspended are I-485s, I-539s, I-129s and I-131s. If I'm missing something please let me know.

From: Neufeld, Donald W
Sent: Friday, January 27, 2017 7:56:01 PM
To: Scialabba, Lori L; Renaud, Daniel M; Higgins, Jennifer
Cc: Renaud, Tracy L; McCament, James W
Subject: RE: Executive Order

I can get word out over the weekend to the centers to suspend processing. I just need the list of 7 countries to include in my message. The Directors are already on notice of the possibility. I would exclude from the suspension any petitions for beneficiaries abroad and TPS/DACA.

From: Scialabba, Lori L
Sent: Friday, January 27, 2017 7:31:26 PM
To: Neufeld, Donald W; Renaud, Daniel M; Higgins, Jennifer
Cc: Renaud, Tracy L
Subject: RE: Executive Order

I think the answer to the first two is yes they are impacted for the 7 countries identified. Not sure about petitions for beneficiaries abroad. I'll ask.

From: Neufeld, Donald W
Sent: Friday, January 27, 2017 7:26 PM
To: Scialabba, Lori L; Renaud, Daniel M; Higgins, Jennifer
Cc: Renaud, Tracy L
Subject: RE: Executive Order

Thanks for sending this, Lori.

As we've discussed, the most urgent question is whether adjustments and extensions or changes of nonimmigrant status are impacted. Separately, is there any impact on petitions for beneficiaries abroad since we would not be determining admissibility? I would think not, but it would be good to have clarity.

From: Scialabba, Lori L
Sent: Friday, January 27, 2017 5:59:36 PM
To: Renaud, Daniel M; Higgins, Jennifer
Cc: Renaud, Tracy L; Neufeld, Donald W
Subject: RE: Executive Order

I think that's o.k. and going forward don't schedule these for interviews.

From: Renaud, Daniel M
Sent: Friday, January 27, 2017 5:47 PM
To: Scialabba, Lori L; Higgins, Jennifer
Cc: Renaud, Tracy L; Neufeld, Donald W
Subject: RE: Executive Order

If we can define "suspend processing" as "suspend prior to approval", then one option would be to continue with the interviews, since it is likely we have some that are scheduled as soon as Monday for affected applicants and then hold the cases post interview. We are trying to scrape our schedulers (C4 and NASS) to see when and where we have interviews scheduled for individuals from affected countries. We should have that sometime Monday.

Daniel M. Renaud
Associate Director, Field Operations Directorate
Department of Homeland Security | U.S. Citizenship and Immigration Services

From: Scialabba, Lori L
Sent: Friday, January 27, 2017 12:43 PM
To: Higgins, Jennifer
Cc: Renaud, Tracy L; Neufeld, Donald W; Renaud, Daniel M
Subject: FW: Executive Order

(b)(5)

FYI. I think Andrew might be right in terms of what is meant but [redacted]

From: Davidson, Andrew J
Sent: Friday, January 27, 2017 12:37 PM
To: Renaud, Tracy L
Cc: Neufeld, Donald W; Renaud, Daniel M; Scialabba, Lori L
Subject: Executive Order

Tracy,

It is my understanding that POTUS will sign the "Protecting the Nation from Terrorist Attacks by Foreign Nationals" order today at 4:30pm. In complying with the EA I believe we need immediate clarification in Section 3 (c) relative to the 30 day suspension of processing immigrants and non-immigrants from the designated countries of interest and if this extends to processing of permanent resident applications. Though the EA states "immigrant and non-immigrant entry [redacted] into the United States", once we grant an adjustment we "admit" that person. [redacted]

[redacted] We just need to clarify if by extension this applies to our product lines. If this is the case then Don and Dan will need to get guidance to the Field to put these adjudications on hold. Other than the refugee suspension that appears fully deployed on our end this appears the most urgent clarification we need relative to the EAs.

Thanks,

Andrew Davidson
Acting Deputy Associate Director
Fraud Detection and National Security Directorate
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security
111 Massachusetts Avenue, NW
Washington, DC 20529

[Redacted] (b)(6)

Shirk, Georgette L

From: Groom, Molly M
Sent: Thursday, February 09, 2017 6:30 PM
To: #CIS OCC ATTORNEY ALL
Subject: 9th Circuit decision.
Attachments: Court of appeal order on stay motion.pdf

Please see attached decision from the 9th Circuit.

Given that the TRO remains in effect nationwide, no additional operational guidance will be forthcoming. We will certainly let everyone know as determinations are made on the next steps in this litigation. Thanks.

FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

STATE OF WASHINGTON; STATE OF
MINNESOTA,

Plaintiffs-Appellees,

v.

DONALD J. TRUMP, President of the
United States; U.S. DEPARTMENT OF
HOMELAND SECURITY; REX W.
TILLERSON, Secretary of State; JOHN
F. KELLY, Secretary of the
Department of Homeland Security;
UNITED STATES OF AMERICA,
Defendants-Appellants.

No. 17-35105

D.C. No.
2:17-cv-00141

ORDER

Motion for Stay of an Order of the
United States District Court for the
Western District of Washington
James L. Robart, District Judge, Presiding

Argued and Submitted February 7, 2017

Filed February 9, 2017

Before: William C. Canby, Richard R. Clifton, and
Michelle T. Friedland, Circuit Judges

Per Curiam Order

COUNSEL

August E. Flenchte (argued), Special Counsel to the Assistant Attorney General; Douglas N. Letter, Sharon Swingle, H. Thomas Byron, Lowell V. Sturgill Jr., and Catherine Dorsey, Attorneys, Appellate Staff; Chad A. Readler, Acting Assistant Attorney General; Noel J. Francisco, Acting Solicitor General; Civil Division, United States Department of Justice, Washington, D.C., for Defendants-Appellants.

Noah G. Purcell (argued), Solicitor General; Marsha Chien and Patricio A. Marquez, Assistant Attorneys General; Colleen M. Melody, Civil Rights Unit Chief; Anne E. Egeler, Deputy Solicitor General; Robert W. Ferguson, Attorney General; Attorney General's Office, Seattle, Washington; for Plaintiff-Appellee State of Washington.

Jacob Campion, Assistant Attorney General; Alan I. Gilbert, Solicitor General; Lori Swanson, Attorney General; Office of the Attorney General, St. Paul, Minnesota; for Plaintiff-Appellee State of Minnesota.

ORDER

PER CURIAM:

At issue in this emergency proceeding is Executive Order 13769, "Protecting the Nation From Foreign Terrorist Entry Into the United States," which, among other changes to immigration policies and procedures, bans for 90 days the entry into the United States of individuals from seven countries. Two States challenged the Executive Order as unconstitutional and violative of federal law, and a federal district court preliminarily ruled in their favor and

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temporarily enjoined enforcement of the Executive Order. The Government now moves for an emergency stay of the district court's temporary restraining order while its appeal of that order proceeds.

To rule on the Government's motion, we must consider several factors, including whether the Government has shown that it is likely to succeed on the merits of its appeal, the degree of hardship caused by a stay or its denial, and the public interest in granting or denying a stay. We assess those factors in light of the limited evidence put forward by both parties at this very preliminary stage and are mindful that our analysis of the hardships and public interest in this case involves particularly sensitive and weighty concerns on both sides. Nevertheless, we hold that the Government has not shown a likelihood of success on the merits of its appeal, nor has it shown that failure to enter a stay would cause irreparable injury, and we therefore deny its emergency motion for a stay.

I. Background

On January 27, 2017, the President issued Executive Order 13769, "Protecting the Nation From Foreign Terrorist Entry Into the United States" (the "Executive Order"). 82 Fed. Reg. 8,977. Citing the terrorist attacks of September 11, 2001, and stating that "numerous foreign-born individuals have been convicted or implicated in terrorism-related crimes" since then, the Executive Order declares that "the United States must ensure that those admitted to this country do not bear hostile attitudes toward it and its founding principles." *Id.* It asserts, "Deteriorating conditions in certain countries due to war, strife, disaster, and civil unrest increase the likelihood that terrorists will use any means possible to enter the United States. The United

States must be vigilant during the visa-issuance process to ensure that those approved for admission do not intend to harm Americans and that they have no ties to terrorism.” *Id.*

The Executive Order makes several changes to the policies and procedures by which non-citizens may enter the United States. Three are at issue here. First, section 3(c) of the Executive Order suspends for 90 days the entry of aliens from seven countries: Iraq, Iran, Libya, Somalia, Sudan, Syria, and Yemen. 82 Fed. Reg. 8,977-78 (citing the Immigration and Nationality Act (INA) § 217(a)(12), codified at 8 U.S.C. § 1187(a)(12)). Second, section 5(a) of the Executive Order suspends for 120 days the United States Refugee Admissions Program. 82 Fed. Reg. 8,979. Upon resumption of the refugee program, section 5(b) of the Executive Order directs the Secretary of State to prioritize refugee claims based on religious persecution where a refugee’s religion is the minority religion in the country of his or her nationality. *Id.* Third, section 5(c) of the Executive Order suspends indefinitely the entry of all Syrian refugees. *Id.* Sections 3(g) and 5(e) of the Executive Order allow the Secretaries of State and Homeland Security to make case-by-case exceptions to these provisions “when in the national interest.” 82 Fed. Reg. 8,978-80. Section 5(e) states that situations that would be in the national interest include “when the person is a religious minority in his country of nationality facing religious persecution.” 82 Fed. Reg. 8,979. The Executive Order requires the Secretaries of State and Homeland Security and the Director of National Intelligence to evaluate the United States’ visa, admission, and refugee programs during the periods in which entry is suspended. 82 Fed. Reg. 8,977-80.

The impact of the Executive Order was immediate and widespread. It was reported that thousands of visas were

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immediately canceled, hundreds of travelers with such visas were prevented from boarding airplanes bound for the United States or denied entry on arrival, and some travelers were detained. Three days later, on January 30, 2017, the State of Washington filed suit in the United States District Court for the Western District of Washington, challenging sections 3(c), 5(a)-(c), and 5(e) of the Executive Order, naming as defendants the President, the Secretary of the Department of Homeland Security, the Secretary of State, and the United States (collectively, “the Government”). Washington alleged that the Executive Order unconstitutionally and illegally stranded its residents abroad, split their families, restricted their travel, and damaged the State’s economy and public universities in violation of the First and Fifth Amendments, the INA, the Foreign Affairs Reform and Restructuring Act, the Religious Freedom Restoration Act, and the Administrative Procedure Act. Washington also alleged that the Executive Order was not truly meant to protect against terror attacks by foreign nationals but rather was intended to enact a “Muslim ban” as the President had stated during his presidential campaign that he would do.

Washington asked the district court to declare that the challenged sections of the Executive Order are illegal and unconstitutional and to enjoin their enforcement nationwide. On the same day, Washington filed an emergency motion for a temporary restraining order (TRO) seeking to enjoin the enforcement of sections 3(c), 5(a)-(c), and 5(e) of the Executive Order. Two days later, Washington’s Complaint was amended to add the State of Minnesota as a plaintiff and to add a claim under the Tenth Amendment. Washington and Minnesota (collectively, “the States”) jointly filed an amended motion for a TRO. The Government opposed the

motion the next day, and the district court held a hearing the day after that.

That evening, the court entered a written order granting the TRO. *Washington v. Trump*, No. C17-0141-JLR, 2017 WL 462040 (W.D. Wash. Feb. 3, 2017). The district court preliminarily concluded that significant and ongoing harm was being inflicted on substantial numbers of people, to the detriment of the States, by means of an Executive Order that the States were likely to be able to prove was unlawful. *Id.* at *2. The district court enjoined and restrained the nationwide enforcement of sections 3(c) and 5(a)-(c) in their entirety. *Id.* It enjoined section 5(e) to the extent that section “purports to prioritize refugee claims of certain religious minorities,” and prohibited the government from “proceeding with any action that prioritizes the refugee claims of certain religious minorities.” The court also directed the parties to propose a briefing schedule for the States’ request for a preliminary injunction and denied the Government’s motion to stay the TRO pending an emergency appeal. *Id.* at *3.

The Government filed a notice of appeal the next day and sought an emergency stay in this court, including an immediate stay while its emergency stay motion was under consideration. We denied the request for an immediate stay and set deadlines for the filing of responsive and reply briefs on the emergency stay motion over the next two days.¹ *Washington v. Trump*, No. 17-35105, 2017 WL 469608 (9th Cir. Feb. 4, 2017). The motion was submitted after oral argument was conducted by telephone.

¹ We have also received many amicus curiae briefs in support of both the Government and the States.

II. Appellate Jurisdiction

The States argue that we lack jurisdiction over the Government's stay motion because the Government's appeal is premature. A TRO is not ordinarily appealable. *See Bennett v. Medtronic, Inc.*, 285 F.3d 801, 804 (9th Cir. 2002). We may nonetheless review an order styled as a TRO if it "possesses the qualities of a preliminary injunction." *Serv. Emps. Int'l Union v. Nat'l Union of Healthcare Workers*, 598 F.3d 1061, 1067 (9th Cir. 2010). This rule has ordinarily required the would-be appellant to show that the TRO was strongly challenged in adversarial proceedings before the district court and that it has or will remain in force for longer than the fourteen-day period identified in Federal Rule of Civil Procedure 65(b). *See, e.g., id.*

We are satisfied that in the extraordinary circumstances of this case, the district court's order possesses the qualities of an appealable preliminary injunction. The parties vigorously contested the legal basis for the TRO in written briefs and oral arguments before the district court. The district court's order has no expiration date, and no hearing has been scheduled. Although the district court has recently scheduled briefing on the States' motion for a preliminary injunction, it is apparent from the district court's scheduling order that the TRO will remain in effect for longer than fourteen days. In light of the unusual circumstances of this case, in which the Government has argued that emergency relief is necessary to support its efforts to prevent terrorism, we believe that this period is long enough that the TRO

should be considered to have the qualities of a reviewable preliminary injunction.²

III. Standing

The Government argues that the district court lacked subject matter jurisdiction because the States have no standing to sue. We have an independent obligation to ascertain our jurisdiction, *Arbaugh v. Y & H Corp.*, 546 U.S. 500, 514 (2006), and we consider the Government's argument de novo, *see, e.g., Hajro v. U.S. Citizenship & Immigration Servs.*, 811 F.3d 1086, 1098 (9th Cir. 2016). We conclude that the States have made a sufficient showing to support standing, at least at this preliminary stage of the proceedings.

Article III, section 2 of the Constitution allows federal courts to consider only "Cases" and "Controversies." *Massachusetts v. EPA*, 549 U.S. 497, 516 (2007). "Those two words confine 'the business of federal courts to questions presented in an adversary context and in a form historically viewed as capable of resolution through the judicial process.'" *Id.* (quoting *Flast v. Cohen*, 392 U.S. 83, 95 (1968)). "Standing is an essential and unchanging part of the case-or-controversy requirement" and is therefore a prerequisite to our jurisdiction. *See Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560 (1992). The "gist of the question of standing" is whether the plaintiff has a sufficiently "personal stake in the outcome of the controversy" to ensure that the parties will be truly adverse and their legal

² Our conclusion here does not preclude consideration of appellate jurisdiction at the merits stage of this appeal. *See Nat'l Indus., Inc. v. Republic Nat'l Life Ins. Co.*, 677 F.2d 1258, 1262 (9th Cir. 1982).

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presentations sharpened. *Massachusetts*, 549 U.S. at 517 (quoting *Baker v. Carr*, 369 U.S. 186, 204 (1962)).

To establish Article III standing, a plaintiff must demonstrate “that it has suffered a concrete and particularized injury that is either actual or imminent, that the injury is fairly traceable to the defendant, and that it is likely that a favorable decision will redress that injury.” *Id.* (citing *Lujan*, 504 U.S. at 560-61).

Because standing is “an indispensable part of the plaintiff’s case,” it “must be supported in the same way as any other matter on which the plaintiff bears the burden of proof, *i.e.*, with the manner and degree of evidence required at the successive stages of the litigation.” *Lujan*, 504 U.S. at 561. At this very preliminary stage of the litigation, the States may rely on the allegations in their Complaint and whatever other evidence they submitted in support of their TRO motion to meet their burden. *See id.* With these allegations and evidence, the States must make a “clear showing of each element of standing.” *Townley v. Miller*, 722 F.3d 1128, 1133 (9th Cir. 2013).³

The States argue that the Executive Order causes a concrete and particularized injury to their public universities, which the parties do not dispute are branches of the States under state law. *See, e.g., Hontz v. State*, 714 P.2d 1176, 1180 (Wash. 1986) (en banc); *Univ. of Minn. v. Raygor*, 620 N.W.2d 680, 683 (Minn. 2001).

³ Our decision in *Townley* concerned a motion for a preliminary injunction, but the legal standards applicable to TROs and preliminary injunctions are “substantially identical.” *Stuhlbarg Int’l Sales Co., Inc. v. John D. Brush & Co., Inc.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001).

Specifically, the States allege that the teaching and research missions of their universities are harmed by the Executive Order's effect on their faculty and students who are nationals of the seven affected countries. These students and faculty cannot travel for research, academic collaboration, or for personal reasons, and their families abroad cannot visit. Some have been stranded outside the country, unable to return to the universities at all. The schools cannot consider attractive student candidates and cannot hire faculty from the seven affected countries, which they have done in the past.

According to declarations filed by the States, for example, two visiting scholars who had planned to spend time at Washington State University were not permitted to enter the United States; one was informed he would be unable to obtain a visa. Similarly, the University of Washington was in the process of sponsoring three prospective employees from countries covered by the Executive Order for visas; it had made plans for their arrival beginning in February 2017, but they have been unable to enter the United States. The University of Washington also sponsored two medicine and science interns who have been prevented by the Executive Order from coming to the University of Washington. The University of Washington has already incurred the costs of visa applications for those interns and will lose its investment if they are not admitted. Both schools have a mission of "global engagement" and rely on such visiting students, scholars, and faculty to advance their educational goals. Students and faculty at Minnesota's public universities were similarly restricted from traveling for academic and personal reasons.

Under the "third party standing" doctrine, these injuries to the state universities give the States standing to assert the

rights of the students, scholars, and faculty affected by the Executive Order. *See Singleton v. Wulff*, 428 U.S. 106, 114-16 (1976) (explaining that third-party standing is allowed when the third party's interests are "inextricably bound up with the activity the litigant wishes to pursue"; when the litigant is "fully, or very nearly, as effective a proponent of the right" as the third party; or when the third party is less able to assert her own rights). Vendors, for example, "have been uniformly permitted to resist efforts at restricting their operations by acting as advocates of the rights of third parties who seek access to their market or function." *Craig v. Boren*, 429 U.S. 190, 195 (1976). Likewise, doctors have been permitted to assert the rights of their patients. *See, e.g.*, *Griswold v. Connecticut*, 381 U.S. 479 (1965). And advocacy organizations such as the NAACP have been permitted to assert the constitutional rights of their members. *See, e.g.*, *NAACP v. Alabama*, 357 U.S. 449 (1958).

Most relevant for our purposes, schools have been permitted to assert the rights of their students. *See, e.g.*, *Runyon v. McCrary*, 427 U.S. 160, 175 & n.13 (1976) ("It is clear that the schools have standing to assert these arguments [asserting free-association rights, privacy rights, and 'a parent's right to direct the education of his children'] on behalf of their patrons."); *Pierce v. Soc'y of Sisters*, 268 U.S. 510, 536 (1925) (allowing a school to assert the "right of parents to choose schools where their children will receive appropriate mental and religious training [and] the right of the child to influence the parents' choice of a school"); *Parks Sch. of Bus., Inc. v. Symington*, 51 F.3d 1480, 1487-88 (9th Cir. 1995) (citing *Pierce* and rejecting the argument that the plaintiff school had no standing to assert claims of discrimination against its minority students); *see also Ohio Ass'n of Indep. Sch. v. Goff*, 92 F.3d 419, 422 (6th Cir. 1996) (citing similar authorities). As in those cases, the interests

of the States' universities here are aligned with their students. The students' educational success is "inextricably bound up" in the universities' capacity to teach them. *Singleton*, 428 U.S. at 115. And the universities' reputations depend on the success of their professors' research. Thus, as the operators of state universities, the States may assert not only their own rights to the extent affected by the Executive Order but may also assert the rights of their students and faculty members.⁴

We therefore conclude that the States have alleged harms to their proprietary interests traceable to the Executive Order. The necessary connection can be drawn in at most two logical steps: (1) the Executive Order prevents nationals of seven countries from entering Washington and Minnesota; (2) as a result, some of these people will not enter state universities, some will not join those universities as faculty, some will be prevented from performing research, and some will not be permitted to return if they leave. And we have no difficulty concluding that the States' injuries would be redressed if they could obtain the relief they ask for: a declaration that the Executive Order violates the Constitution and an injunction barring its enforcement. The Government does not argue otherwise.

⁴ The Government argues that the States may not bring Establishment Clause claims because they lack Establishment Clause rights. Even if we assume that States lack such rights, an issue we need not decide, that is irrelevant in this case because the States are asserting the rights of their students and professors. Male doctors do not have personal rights in abortion and yet any physician may assert those rights on behalf of his female patients. See *Singleton*, 428 U.S. at 118.

We therefore hold that the States have standing.⁵

IV. Reviewability of the Executive Order

The Government contends that the district court lacked authority to enjoin enforcement of the Executive Order because the President has “unreviewable authority to suspend the admission of any class of aliens.” The Government does not merely argue that courts owe substantial deference to the immigration and national security policy determinations of the political branches—an uncontroversial principle that is well-grounded in our jurisprudence. *See, e.g., Cardenas v. United States*, 826 F.3d 1164, 1169 (9th Cir. 2016) (recognizing that “the power to expel or exclude aliens [is] a fundamental sovereign attribute exercised by the Government’s political departments largely immune from judicial control” (quoting *Fiallo v. Bell*, 430 U.S. 787, 792 (1977))); *see also Holder v. Humanitarian Law Project*, 561 U.S. 1, 33-34 (2010) (explaining that courts should defer to the political branches with respect to national security and foreign relations). Instead, the Government has taken the position that the President’s decisions about immigration policy, particularly when motivated by national security concerns, are *unreviewable*, even if those actions potentially contravene constitutional rights and protections. The Government indeed asserts that it violates separation of powers for the

⁵ The States have asserted other proprietary interests and also presented an alternative standing theory based on their ability to advance the interests of their citizens as *parens patriae*. Because we conclude that the States’ proprietary interests as operators of their public universities are sufficient to support standing, we need not reach those arguments.

judiciary to entertain a constitutional challenge to executive actions such as this one.

There is no precedent to support this claimed unreviewability, which runs contrary to the fundamental structure of our constitutional democracy. *See Boumediene v. Bush*, 553 U.S. 723, 765 (2008) (rejecting the idea that, even by congressional statute, Congress and the Executive could eliminate federal court habeas jurisdiction over enemy combatants, because the “political branches” lack “the power to switch the Constitution on or off at will”). Within our system, it is the role of the judiciary to interpret the law, a duty that will sometimes require the “[r]esolution of litigation challenging the constitutional authority of one of the three branches.” *Zivotofsky ex rel. Zivotofsky v. Clinton*, 566 U.S. 189, 196 (2012) (quoting *INS v. Chadha*, 462 U.S. 919, 943 (1983)). We are called upon to perform that duty in this case.

Although our jurisprudence has long counseled deference to the political branches on matters of immigration and national security, neither the Supreme Court nor our court has ever held that courts lack the authority to review executive action in those arenas for compliance with the Constitution. To the contrary, the Supreme Court has repeatedly and explicitly rejected the notion that the political branches have unreviewable authority over immigration or are not subject to the Constitution when policymaking in that context. *See Zadvydas v. Davis*, 533 U.S. 678, 695 (2001) (emphasizing that the power of the political branches over immigration “is subject to important constitutional limitations”); *Chadha*, 462 U.S. at 940-41 (rejecting the argument that Congress has “unreviewable authority over the regulation of aliens,” and affirming that courts can review “whether Congress has chosen a constitutionally

permissible means of implementing that power").⁶ Our court has likewise made clear that “[a]lthough alienage classifications are closely connected to matters of foreign policy and national security,” courts “can and do review foreign policy arguments that are offered to justify legislative or executive action when constitutional rights are at stake.” *American-Arab Anti-Discrimination Comm. v. Reno*, 70 F.3d 1045, 1056 (9th Cir. 1995).

Kleindienst v. Mandel, 408 U.S. 753 (1972), does not compel a different conclusion. The Government cites *Mandel* for the proposition that “when the Executive exercises’ immigration authority ‘on the basis of a facially legitimate and bona fide reason, the courts will [not] look behind the exercise of that discretion.’” The Government omits portions of the quoted language to imply that this standard governs judicial review of *all* executive exercises of immigration authority. In fact, the *Mandel* standard applies to lawsuits challenging an executive branch official’s decision to issue or deny an individual visa based on the

⁶ See also, e.g., *Galvan v. Press*, 347 U.S. 522, 530 (1954) (reaffirming the broad power of Congress over immigration, but observing that “[i]n the enforcement of these policies, the Executive Branch of the Government must respect the procedural safeguards of due process”); *Yamataya v. Fisher*, 189 U.S. 86, 100-01 (1903) (reaffirming, in the context of adjudicating a constitutional challenge to an immigration policy, that “this court has never held, nor must we now be understood as holding, that administrative officers, when executing the provisions of a statute involving the liberty of persons, may disregard the fundamental principles that inhere in ‘due process of law’ as understood at the time of the adoption of the Constitution”); *Chae Chan Ping v. United States*, 130 U.S. 581, 604 (1889) (“The powers to declare war, make treaties . . . and admit subjects of other nations to citizenship, are all sovereign powers, restricted in their exercise only by the constitution itself and considerations of public policy and justice which control, more or less, the conduct of all civilized nations.”).

application of a congressionally enumerated standard to the particular facts presented by that visa application. The present case, by contrast, is not about the application of a specifically enumerated congressional policy to the particular facts presented in an individual visa application. Rather, the States are challenging the President's *promulgation* of sweeping immigration policy. Such exercises of policymaking authority at the highest levels of the political branches are plainly not subject to the *Mandel* standard; as cases like *Zadvydas* and *Chadha* make clear, courts can and do review constitutional challenges to the substance and implementation of immigration policy. *See Zadvydas*, 533 U.S. at 695; *Chadha*, 462 U.S. at 940-41.

This is no less true when the challenged immigration action implicates national security concerns. *See Ex parte Quirin*, 317 U.S. 1, 19 (1942) (stating that courts have a duty, "in time of war as well as in time of peace, to preserve unimpaired the constitutional safeguards of civil liberty"); *Ex parte Milligan*, 71 U.S. 2, 120-21 (1866) ("The Constitution of the United States is a law for rulers and people, equally in war and in peace . . . under all circumstances."). We are mindful that deference to the political branches is particularly appropriate with respect to national security and foreign affairs, given the relative institutional capacity, informational access, and expertise of the courts. *See Humanitarian Law Project*, 561 U.S. at 33-34.

Nonetheless, "courts are not powerless to review the political branches' actions" with respect to matters of national security. *Alperin v. Vatican Bank*, 410 F.3d 532, 559 n.17 (9th Cir. 2005). To the contrary, while counseling deference to the national security determinations of the political branches, the Supreme Court has made clear that

the Government’s “authority and expertise in [such] matters do not automatically trump the Court’s own obligation to secure the protection that the Constitution grants to individuals,” even in times of war. *Humanitarian Law Project*, 561 U.S. at 34 (quoting *id.* at 61 (Breyer, J., dissenting)); *see also United States v. Robel*, 389 U.S. 258, 264 (1967) (“[N]ational defense’ cannot be deemed an end in itself, justifying any exercise of legislative power designed to promote such a goal. . . . It would indeed be ironic if, in the name of national defense, we would sanction the subversion of one of those liberties . . . which makes the defense of the Nation worthwhile.”); *Zemel v. Rusk*, 381 U.S. 1, 17 (1965) (“[S]imply because a statute deals with foreign relations [does not mean that] it can grant the Executive totally unrestricted freedom of choice.”).

Indeed, federal courts routinely review the constitutionality of—and even invalidate—actions taken by the executive to promote national security, and have done so even in times of conflict. *See, e.g., Boumediene*, 553 U.S. 723 (striking down a federal statute purporting to deprive federal courts of jurisdiction over habeas petitions filed by non-citizens being held as “enemy combatants” after being captured in Afghanistan or elsewhere and accused of authorizing, planning, committing, or aiding the terrorist attacks perpetrated on September 11, 2001); *Apteker v. Sec'y of State*, 378 U.S. 500 (1964) (holding unconstitutional a statute denying passports to American members of the Communist Party despite national security concerns); *Ex parte Endo*, 323 U.S. 283 (1944) (holding unconstitutional the detention of a law-abiding and loyal American of Japanese ancestry during World War II and affirming federal court jurisdiction over habeas petitions by such individuals). As a plurality of the Supreme Court cautioned in *Hamdi v. Rumsfeld*, 542 U.S. 507 (2004), “Whatever power the United

States Constitution envisions for the Executive in its exchanges with other nations or with enemy organizations in times of conflict, it most assuredly envisions a role for all three branches when individual liberties are at stake.” *Id.* at 536 (plurality opinion).

In short, although courts owe considerable deference to the President’s policy determinations with respect to immigration and national security, it is beyond question that the federal judiciary retains the authority to adjudicate constitutional challenges to executive action.

V. Legal Standard

The Government moves to stay the district court’s order pending this appeal. “A stay is not a matter of right, even if irreparable injury might otherwise result.” *Nken v. Holder*, 556 U.S. 418, 433 (2009) (quoting *Virginian Ry. Co. v. United States*, 272 U.S. 658, 672 (1926)). “It is instead ‘an exercise of judicial discretion,’ and ‘the propriety of its issue is dependent upon the circumstances of the particular case.’” *Id.* (quoting *Virginian*, 272 U.S. at 672-73) (alterations omitted). “The party requesting a stay bears the burden of showing that the circumstances justify an exercise of that discretion.” *Id.* at 433-34.

Our decision is guided by four questions: “(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies.” *Lair v. Bullock*, 697 F.3d 1200, 1203 (9th Cir. 2012) (quoting *Nken*, 556 U.S. at 434). “The first two factors . . . are the most critical,” *Nken*, 556 U.S. at 434, and the last two steps are reached “[o]nce an applicant satisfies the first two

factors,” *id.* at 435. We conclude that the Government has failed to clear each of the first two critical steps. We also conclude that the final two factors do not militate in favor of a stay. We emphasize, however, that our analysis is a preliminary one. We are tasked here with deciding only whether the Government has made a strong showing of its likely success in this appeal and whether the district court’s TRO should be stayed in light of the relative hardships and the public interest.

The Government has not shown that it is likely to succeed on appeal on its arguments about, at least, the States’ Due Process Clause claim, and we also note the serious nature of the allegations the States have raised with respect to their religious discrimination claims. We express no view as to any of the States’ other claims.

VI. Likelihood of Success—Due Process

The Fifth Amendment of the Constitution prohibits the Government from depriving individuals of their “life, liberty, or property, without due process of law.” U.S. Const. amend. V. The Government may not deprive a person of one of these protected interests without providing “notice and an opportunity to respond,” or, in other words, the opportunity to present reasons not to proceed with the deprivation and have them considered. *United States v. Raya-Vaca*, 771 F.3d 1195, 1204 (9th Cir. 2014); accord *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 542 (1985); *ASSE Int’l, Inc. v. Kerry*, 803 F.3d 1059, 1073 (9th Cir. 2015).

The Government has not shown that the Executive Order provides what due process requires, such as notice and a hearing prior to restricting an individual’s ability to travel. Indeed, the Government does not contend that the Executive

Order provides for such process. Rather, in addition to the arguments addressed in other parts of this opinion, the Government argues that most or all of the individuals affected by the Executive Order have no rights under the Due Process Clause.

In the district court, the States argued that the Executive Order violates the procedural due process rights of various aliens in at least three independent ways. First, section 3(c) denies re-entry to certain lawful permanent residents and non-immigrant visaholders without constitutionally sufficient notice and an opportunity to respond. Second, section 3(c) prohibits certain lawful permanent residents and non-immigrant visaholders from exercising their separate and independent constitutionally protected liberty interests in travelling abroad and thereafter re-entering the United States. Third, section 5 contravenes the procedures provided by federal statute for refugees seeking asylum and related relief in the United States. The district court held generally in the TRO that the States were likely to prevail on the merits of their due process claims, without discussing or offering analysis as to any specific alleged violation.

At this stage of the proceedings, it is the Government's burden to make "a strong showing that [it] is likely to" prevail against the States' procedural due process claims. *Lair v. Bullock*, 697 F.3d 1200, 1203 (9th Cir. 2012) (quoting *Nken v. Holder*, 556 U.S. 418, 426 (2009)). We are not persuaded that the Government has carried its burden for a stay pending appeal.

The procedural protections provided by the Fifth Amendment's Due Process Clause are not limited to citizens. Rather, they "appl[y] to all 'persons' within the United States, including aliens," regardless of "whether their

presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). These rights also apply to certain aliens attempting to reenter the United States after travelling abroad. *Landon v. Plasencia*, 459 U.S. 21, 33-34 (1982). The Government has provided no affirmative argument showing that the States’ procedural due process claims fail as to these categories of aliens. For example, the Government has failed to establish that lawful permanent residents have no due process rights when seeking to re-enter the United States. See *id.* (“[T]he returning resident alien is entitled as a matter of due process to a hearing on the charges underlying any attempt to exclude him.” (quoting *Rosenberg v. Fleuti*, 374 U.S. 449, 460 (1963))). Nor has the Government established that the Executive Order provides lawful permanent residents with constitutionally sufficient process to challenge their denial of re-entry. See *id.* at 35 (“[T]he courts must evaluate the particular circumstances and determine what procedures would satisfy the minimum requirements of due process on the re-entry of a permanent resident alien.”).

The Government has argued that, even if lawful permanent residents have due process rights, the States’ challenge to section 3(c) based on its application to lawful permanent residents is moot because several days after the Executive Order was issued, White House counsel Donald F. McGahn II issued “[a]uthoritative [g]uidance” stating that sections 3(c) and 3(e) of the Executive Order do not apply to lawful permanent residents. At this point, however, we cannot rely upon the Government’s contention that the Executive Order no longer applies to lawful permanent residents. The Government has offered no authority establishing that the White House counsel is empowered to issue an amended order superseding the Executive Order

signed by the President and now challenged by the States, and that proposition seems unlikely.

Nor has the Government established that the White House counsel's interpretation of the Executive Order is binding on all executive branch officials responsible for enforcing the Executive Order. The White House counsel is not the President, and he is not known to be in the chain of command for any of the Executive Departments. Moreover, in light of the Government's shifting interpretations of the Executive Order, we cannot say that the current interpretation by White House counsel, even if authoritative and binding, will persist past the immediate stage of these proceedings. On this record, therefore, we cannot conclude that the Government has shown that it is "*absolutely clear* that the allegedly wrongful behavior could not reasonably be expected to recur." *Friends of the Earth, Inc., v. Laidlaw Envl. Servs., Inc.*, 528 U.S. 167, 189 (2000) (emphasis added).

Even if the claims based on the due process rights of lawful permanent residents were no longer part of this case, the States would continue to have potential claims regarding possible due process rights of other persons who are in the United States, even if unlawfully, *see Zadvydas*, 533 U.S. 693; non-immigrant visaholders who have been in the United States but temporarily departed or wish to temporarily depart, *see Landon*, 459 U.S. 33-34; refugees, *see* 8 U.S.C. § 1231 note 8; and applicants who have a relationship with a U.S. resident or an institution that might have rights of its own to assert, *see Kerry v. Din*, 135 S. Ct. 2128, 2139 (2015) (Kennedy, J., concurring in judgment); *id.* at 2142 (Breyer, J., dissenting); *Kleindienst v. Mandel*, 408 U.S. 753, 762-65 (1972). Accordingly, the Government has not demonstrated that the States lack viable claims based

on the due process rights of persons who will suffer injuries to protected interests due to the Executive Order. Indeed, the existence of such persons is obvious.

The Government argues that, even if the States have shown that they will likely succeed on some of their procedural due process claims, the district court nevertheless erred by issuing an “overbroad” TRO. Specifically, the Government argues that the TRO is overbroad in two independent respects: (1) the TRO extends beyond lawful permanent residents, and covers aliens who cannot assert cognizable liberty interests in connection with travelling into and out of the United States, and (2) the TRO applies nationwide, and enjoins application of the Executive Order outside Washington and Minnesota. We decline to modify the scope of the TRO in either respect.

First, we decline to limit the scope of the TRO to lawful permanent residents and the additional category more recently suggested by the Government, in its reply memorandum, “previously admitted aliens who are temporarily abroad now or who wish to travel and return to the United States in the future.” That limitation on its face omits aliens who are in the United States unlawfully, and those individuals have due process rights as well. *Zadvydas*, 533 U.S. at 693. That would also omit claims by citizens who have an interest in specific non-citizens’ ability to travel to the United States. *See Din*, 135 S. Ct. at 2139 (Kennedy, J., concurring in judgment); *id.* at 2142 (Breyer, J., dissenting) (six Justices declining to adopt a rule that would categorically bar U.S. citizens from asserting cognizable liberty interests in the receipt of visas by alien spouses). There might be persons covered by the TRO who do not have viable due process claims, but the Government’s proposed revision leaves out at least some who do.

Second, we decline to limit the geographic scope of the TRO. The Fifth Circuit has held that such a fragmented immigration policy would run afoul of the constitutional and statutory requirement for uniform immigration law and policy. *Texas v. United States*, 809 F.3d 134, 187-88 (5th Cir. 2015), *aff'd by an equally divided Court*, 136 S. Ct. 2271 (2016). At this stage of the litigation, we do not need to and do not reach such a legal conclusion for ourselves, but we cannot say that the Government has established that a contrary view is likely to prevail. Moreover, even if limiting the geographic scope of the injunction would be desirable, the Government has not proposed a workable alternative form of the TRO that accounts for the nation's multiple ports of entry and interconnected transit system and that would protect the proprietary interests of the States at issue here while nevertheless applying only within the States' borders.

More generally, even if the TRO might be overbroad in some respects, it is not our role to try, in effect, to rewrite the Executive Order. See *United States v. Nat'l Treasury Emps. Union*, 513 U.S. 454, 479 (1995) (declining to rewrite a statute to eliminate constitutional defects); *cf. Aptheker v. Sec'y of State*, 378 U.S. 500, 516 (1964) (invalidating a restriction on freedom of travel despite the existence of constitutional applications). The political branches are far better equipped to make appropriate distinctions. For now, it is enough for us to conclude that the Government has failed to establish that it will likely succeed on its due process argument in this appeal.

VII. Likelihood of Success—Religious Discrimination

The First Amendment prohibits any “law respecting an establishment of religion.” U.S. Const. amend. I. A law that has a religious, not secular, purpose violates that clause,

Lemon v. Kurtzman, 403 U.S. 602, 612-13 (1971), as does one that “officially prefer[s] [one religious denomination] over another,” *Larson v. Valente*, 456 U.S. 228, 244 (1982). The Supreme Court has explained that this is because endorsement of a religion “sends the ancillary message to . . . nonadherents ‘that they are outsiders, not full members of the political community.’” *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 310 (2000) (quoting *Lynch v. Donnelly*, 465 U.S. 668, 688 (1984) (O’Connor, J., concurring)). The Equal Protection Clause likewise prohibits the Government from impermissibly discriminating among persons based on religion. *De La Cruz v. Tormey*, 582 F.2d 45, 50 (9th Cir. 1978).

The States argue that the Executive Order violates the Establishment and Equal Protection Clauses because it was intended to disfavor Muslims. In support of this argument, the States have offered evidence of numerous statements by the President about his intent to implement a “Muslim ban” as well as evidence they claim suggests that the Executive Order was intended to be that ban, including sections 5(b) and 5(e) of the Order. It is well established that evidence of purpose beyond the face of the challenged law may be considered in evaluating Establishment and Equal Protection Clause claims. See, e.g., *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 534 (1993) (“The Free Exercise Clause, like the Establishment Clause, extends beyond facial discrimination. . . . Official action that targets religious conduct for distinctive treatment cannot be shielded by mere compliance with the requirement of facial neutrality.”); *Larson*, 456 U.S. at 254-55 (holding that a facially neutral statute violated the Establishment Clause in light of legislative history demonstrating an intent to apply regulations only to minority religions); *Village of Arlington Heights v. Metro. Housing Dev. Corp.*, 429 U.S. 252, 266-

68 (1977) (explaining that circumstantial evidence of intent, including the historical background of the decision and statements by decisionmakers, may be considered in evaluating whether a governmental action was motivated by a discriminatory purpose).

The States' claims raise serious allegations and present significant constitutional questions. In light of the sensitive interests involved, the pace of the current emergency proceedings, and our conclusion that the Government has not met its burden of showing likelihood of success on appeal on its arguments with respect to the due process claim, we reserve consideration of these claims until the merits of this appeal have been fully briefed.

VIII. The Balance of Hardships and the Public Interest

The Government has not shown that a stay is necessary to avoid irreparable injury. *Nken*, 556 U.S. at 434. Although we agree that "the Government's interest in combating terrorism is an urgent objective of the highest order," *Holder v. Humanitarian Law Project*, 561 U.S. 1, 28 (2010), the Government has done little more than reiterate that fact. Despite the district court's and our own repeated invitations to explain the urgent need for the Executive Order to be placed immediately into effect, the Government submitted no evidence to rebut the States' argument that the district court's order merely returned the nation temporarily to the position it has occupied for many previous years.

The Government has pointed to no evidence that any alien from any of the countries named in the Order has

perpetrated a terrorist attack in the United States.⁷ Rather than present evidence to explain the need for the Executive Order, the Government has taken the position that we must not review its decision at all.⁸ We disagree, as explained above.

To the extent that the Government claims that it has suffered an institutional injury by erosion of the separation of powers, that injury is not “irreparable.” It may yet pursue and vindicate its interests in the full course of this litigation. *See, e.g., Texas v. United States*, 787 F.3d 733, 767-68 (5th Cir. 2015) (“[I]t is the resolution of the case on the merits, not whether the injunction is stayed pending appeal, that will affect those principles.”).

⁷ Although the Government points to the fact that Congress and the Executive identified the seven countries named in the Executive Order as countries of concern in 2015 and 2016, the Government has not offered any evidence or even an explanation of how the national security concerns that justified those designations, which triggered visa requirements, can be extrapolated to justify an urgent need for the Executive Order to be immediately reinstated.

⁸ In addition, the Government asserts that, “[u]nlike the President, courts do not have access to classified information about the threat posed by terrorist organizations operating in particular nations, the efforts of those organizations to infiltrate the United States, or gaps in the vetting process.” But the Government may provide a court with classified information. Courts regularly receive classified information under seal and maintain its confidentiality. Regulations and rules have long been in place for that. 28 C.F.R. § 17.17(c) (describing Department of Justice procedures to protect classified materials in civil cases); 28 C.F.R. § 17.46(c) (“Members of Congress, Justices of the United States Supreme Court, and Judges of the United States Courts of Appeal and District Courts do not require a determination of their eligibility for access to classified information . . .”); W.D. Wash. Civ. L.R. 5(g) (providing procedures governing filings under seal).

By contrast, the States have offered ample evidence that if the Executive Order were reinstated even temporarily, it would substantially injure the States and multiple “other parties interested in the proceeding.” *Nken*, 556 U.S. at 434 (quoting *Hilton v. Braunkill*, 481 U.S. 770, 776 (1987)). When the Executive Order was in effect, the States contend that the travel prohibitions harmed the States’ university employees and students, separated families, and stranded the States’ residents abroad. These are substantial injuries and even irreparable harms. See *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (“It is well established that the deprivation of constitutional rights ‘unquestionably constitutes irreparable injury.’” (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976))).

The Government suggests that the Executive Order’s discretionary waiver provisions are a sufficient safety valve for those who would suffer unnecessarily, but it has offered no explanation for how these provisions would function in practice: how would the “national interest” be determined, who would make that determination, and when? Moreover, as we have explained above, the Government has not otherwise explained how the Executive Order could realistically be administered only in parts such that the injuries listed above would be avoided.

Finally, in evaluating the need for a stay, we must consider the public interest generally. See *Nken*, 556 U.S. at 434. Aspects of the public interest favor both sides, as evidenced by the massive attention this case has garnered at even the most preliminary stages. On the one hand, the public has a powerful interest in national security and in the ability of an elected president to enact policies. And on the other, the public also has an interest in free flow of travel, in avoiding separation of families, and in freedom from

discrimination. We need not characterize the public interest more definitely than this; when considered alongside the hardships discussed above, these competing public interests do not justify a stay.

IX. Conclusion

For the foregoing reasons, the emergency motion for a stay pending appeal is **DENIED**.

Shirk, Georgette L

From: Kleczek, Marguerite P (Ania)
Sent: Thursday, February 02, 2017 2:59 PM
To: Salem, Claudia S; Dalal-Dheini, Sharvari P (Shev); Zengotitabengoa, Colleen R; Whitney, Ronald W; Hammill, Hunter A; Mcgee, Ramona L; Franke, Evan R; Zill, Katherine F; Tellawi, Heba K; Mandanas, Maria J (Joy); Burkley, Bruce D; Zimonjic, Milica; Elder, Phillip D
Cc: Groom, Molly M; Busch, Philip B; OCC-Clearance; Hinds, Ian G; Carpenter, Dea D
Subject: DUE TOMORROW by 11:30: Data Call on potential Regs Flowing from EO's
Attachments: EO 13768 - Public Safety in the Interior 01-25-17.pdf; EO 13769 - Foreign Terrorist Entry 01-27-17.pdf; EO 13767 - Border Sec & Imm Enf 01-25-17.pdf
Importance: High

OGC Regs (Christina McDonald) got together CBP, ICE, and USCIS regs POCs to discuss a Regs working group that Christina was asked to lead. Note that there are other working groups at work going over other issues. What Christina has asked the three components to do is provide a preliminary list of potential new regs or revisions to existing regs affected by the attached 3 Executive Orders. We need SMEs help to identify potential regs. This preliminary list is due tomorrow noon to Christina, but we'll need to send over any suggestions to USCIS Regulatory Coordination Division (RCD – Sam Deshommes) a little earlier than that so that she can have time to send over the response for USCIS.

Christina is putting together a preliminary list to start things off. Here are some of preliminary thoughts as to where USCIS may need to start rulemaking actions. Could you fill in below (in a different color) possible 8 CFR cites for regs that may need to be amended or list what new regs might need to be promulgated?

EO 13768 – Public Safety in the Interior

Sec. 6 – Civil Fines and Penalties

CBP said that they impose fines against carriers. ICE mentioned INA 274C (document fraud – and mentioned Warren McBroom). I vaguely remember something about nonimmigrants having a requirement to post a bond?! Not sure if that qualifies or what provision, but could someone look into that? Any other ideas?

Sec. 9(a) (last sentence) – Sanctuary Jurisdictions (8 USC 1373) – SAVE involvement? Maybe too remote, but just raising the possibility.

Sec. 10(b) Very broad order for us to review regs, policies, and procedures for consistency with the order and publish regs rescinding or revising any reg inconsistent with the order

Sec. 12 Recalcitrant Countries – INA section 243(d) (ALD?)

Sec. 14 – Privacy Act: Christina said that this is being worked on by a separate working group, so we do not have to worry about it.

EO 13769 – Foreign Terrorist Entry

Sec. 4(a) Implementing Uniform Screening Standards

- Uniform screening standard and procedure, such as in-person interviews
New biometrics rule amending 8 CFR 103.2(b)(9) and 103.16; 103.17

- Amended application form that include questions aimed at identifying fraudulent answers and malicious intent

- Mechanism to ensure that the applicant is who the applicant claims to be
New biometrics rule amending 8 CFR 103.2(b)(9) and 103.16; 103.17

Sec. 6 Rescission of Exercise of Authority Relating to the Terrorism Grounds of Inadmissibility

- Christina thought this was about TRIG

EO 13767 Border Security and Imm Enf

Sec. 11(b): 8 CFR 208.30 and 31 - Credible fear and reasonable fear determinations (RALD—are regs revisions required?)

11(d): Parole authority – must be case-by-case in accordance with the plain language of the statute

- 8 CFCR 103.7 Bundled fees for adjustment applicants?

Please send in any ideas that you have ASAP. Sorry for the quick turnaround. Our answer could be something like – we think 8 CFR XXXX might be affected, but we need to study the issue further.

Thanks,
Ania

*Marguerite (Ania) P. Kleczek
Chief, Regulatory and Verification Law Division
Office of the Chief Counsel, USCIS*

[Redacted]
(b)(6)

Shirk, Georgette L

From: Hinds, Ian G
Sent: Monday, January 30, 2017 12:19 PM
To: Groom, Molly M; #CIS OCC CHIEFS ALL; #CIS OCC DEPUTIES ALL
Cc: Carpenter, Dea D; Miles, John D; Martinez, Janette M; Gentry, Anthony E; Muhletaler, Catherine
Subject: EO update
Attachments: QA for EO on Protecting the Nation FINAL.DOCX

All,

Attached see the DHS OPA-cleared Q/As regarding the EO that was issued on Friday. They are not for distribution to the public. For now, please be advised that if an OCC attorney is asked by the client to provide guidance on how to apply the EO, the matter should be raised through his/her chain of command to OCC leadership for coordination before responding to the client. Other inquiries should be sent to OCOMM or OLA as appropriate.

Thanks,
Ian

Shirk, Georgette L

From: Owens, Jessica D
Sent: Wednesday, January 25, 2017 3:14 PM
To: Zengotitabengoa, Colleen R; Whitney, Ronald W; Groom, Molly M; Hammill, Hunter A
Subject: FW: circuit ride update

FYI In case you have not seen this. (but maybe don't forward because it came to me through unofficial channels...)

From: Strack, Barbara L
Sent: Wednesday, January 25, 2017 3:37:28 PM
To: Strack, Barbara L
Subject: circuit ride update

Dear RAD staff – I know that many of you have seen draft copies of an Executive Order related to the USRAP that is expected to be finalized and signed tomorrow. In light of this anticipated announcement, we've determined that it would be prudent to suspend circuit rides that are scheduled to depart between now and February 15.

We are also suspending the remaining PDBs planned for this week.

For our TDYers who are here in DC, we will be sharing information as soon as possible about travel arrangements for returning to home offices.

I hope to share more information tomorrow.

Barbara

Shirk, Georgette L

From: Groom, Molly M
Sent: Wednesday, February 01, 2017 6:35 AM
To: Zengotitabengoa, Colleen R; Whitney, Ronald W
Subject: FW: EO

Any good arguments regarding why section 3 doesn't cover refugees? I think you'd have to say they aren't immigrants. OGC shot that down previously because of 101(a)(15) but I thought we'd made that argument before. Anyway can this be a top priority today?

From: Benedict, Deborah L
Sent: Tuesday, January 31, 2017 7:31:12 PM
To: Groom, Molly M
Subject: RE: EO

Having other departments weigh in might help (and the below is just based on my reading, maybe State has something stronger!).

From: Groom, Molly M
Sent: Tuesday, January 31, 2017 7:29 PM
To: Benedict, Deborah L
Subject: RE: EO

They dismissed any argument Friday night. But maybe they will reconsider.

From: Benedict, Deborah L
Sent: Tuesday, January 31, 2017 7:21:20 PM
To: Groom, Molly M
Subject: RE: EO

Nope unfortunately not, only that they feel six of the seven countries can be exempted. I'm sure you have reviewed the possibilities already with OGC (that Section 3(g) applies to refugees as well as IV and NIV and both exemptions could be sought and approved, or that the seven countries provision only applies to immigrant and nonimmigrant visas, not the refugee provisions for which only Syrian cases are suspended) but I am not sure how State has articulated it.

From: Groom, Molly M
Sent: Tuesday, January 31, 2017 7:11 PM
To: Benedict, Deborah L
Subject: RE: EO

She told me who the lawyer was but didn't provide her reasoning—do you have that?

From: Benedict, Deborah L
Sent: Tuesday, January 31, 2017 7:08 PM
To: Groom, Molly M
Subject: EO

Assuming Barbara reached you regarding the State lawyer's interpretation of the EO Section 3?

Shirk, Georgette L

From: Carpenter, Dea D on behalf of OCC-Clearance
Sent: Friday, February 03, 2017 8:17 AM
To: RALD; USCIS OCC NSCD
Cc: Zengotitabengoa, Colleen R; Whitney, Ronald W; Hammill, Hunter A; Owens, Jessica D; Franke, Evan R; Zill, Katherine F; Groom, Molly M; Busch, Philip B
Subject: FW: EO Tasking on Information for Adjudications - Edits requested by 11:00 a.m.!
Attachments: TEMPLATE_E.O Section 3 Data Call USCIS.docx

RALD - Please take the lead on review and response of this item for OCC, and cc the Box on your reply to the client. Thank you!

From: Farnam, Julie E
Sent: Thursday, February 02, 2017 5:51 PM
To: Busch, Philip B; Hinds, Ian G; Zengotitabengoa, Colleen R
Cc: Groom, Molly M; OCC-Clearance
Subject: RE: EO Tasking on Information for Adjudications

Sorry, please use this version. Added two points to data point 2.

From: Farnam, Julie E
Sent: Thursday, February 02, 2017 5:41 PM
To: Busch, Philip B; Hinds, Ian G; Zengotitabengoa, Colleen R
Cc: Groom, Molly M; OCC-Clearance
Subject: EO Tasking on Information for Adjudications

Attached is a summary of information we'd want from other countries to assist in our adjudications process as requested in the "Terrorist Entry" EO, Section 3a. For this tasking we just need a list that DHS PLCY/SCO can incorporate into the larger report they are drafting for this deliverable. This is due to the department tomorrow, so if I could have your edits by 11:00 tomorrow morning, that would be greatly appreciated. It's a fairly succinct document, so hopefully it shouldn't take long to review. Much thanks!

Julie Farnam
Senior Advisor
Field Operations Directorate
U.S. Citizenship and Immigration Services

(b)(6)

This communication, along with any attachments, may contain confidential information and is covered by federal laws governing electronic communications. Electronic communications may also be monitored by the Department of Homeland Security, U.S. Citizenship and Immigration Services. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, use, or copying of this message is strictly prohibited. If you have received this in error, please delete this message and all attachments and immediately notify the sender.

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	Varies	Would allow USCIS to verify births/deaths.	Need Unknown	Un
2. International equivalent of the Electronic Verification for Vital Events database				Co chi cu DN mu sec
3. Better/more frequent DNA collection, especially in countries where DOS has determined civil registries are unreliable	High	Verify familial relationships when adjudicating petitions for alien relatives.	8 CFR 204.2(d)(2)(vi) [redacted]	SPOV 202-489-88

Submitted by: Lori Scialabba

Component: USCIS

POC (Name, email, telephone): Julie Farnam, Julie.e.farnam@

Cleared By:

Shirk, Georgette L

From: Groom, Molly M
Sent: Friday, February 03, 2017 6:38 AM
To: Whitney, Ronald W; Mandanas, Maria J (Joy); Kleczek, Marguerite P (Ania); Salem, Claudia S; Dalal-Dheini, Sharvari P (Shev); Zengotitabengoa, Colleen R; Hammill, Hunter A; Mcgee, Ramona L; Franke, Evan R; Zill, Katherine F; Tellawi, Heba K; Burkley, Bruce D; Zimonjic, Milica; Elder, Phillip D
Cc: Busch, Philip B; OCC-Clearance; Hinds, Ian G; Carpenter, Dea D; OCC Regulations
Subject: RE: DUE TOMORROW by 11:30: Data Call on potential Regs Flowing from EO

This one doesn't need to be included since that guidance is going out this morning but good to point it out for us.

From: Whitney, Ronald W
Sent: Thursday, February 02, 2017 5:37:06 PM
To: Mandanas, Maria J (Joy); Kleczek, Marguerite P (Ania); Salem, Claudia S; Dalal-Dheini, Sharvari P (Shev); Zengotitabengoa, Colleen R; Hammill, Hunter A; Mcgee, Ramona L; Franke, Evan R; Zill, Katherine F; Tellawi, Heba K; Burkley, Bruce D; Zimonjic, Milica; Elder, Phillip D
Cc: Groom, Molly M; Busch, Philip B; OCC-Clearance; Hinds, Ian G; Carpenter, Dea D; OCC Regulations
Subject: RE: DUE TOMORROW by 11:30: Data Call on potential Regs Flowing from EO

Since we are including significant changes to guidance (this may not be what they are looking for, but here goes):

EO 13769 - Section 11(a)(i) and 11(b) (EO should not be construed to impair or affect authority of executive agencies, and shall be implemented consistent with applicable law): This will require rescission of recent guidance suspending the adjudication and granting of immigration benefits, which conflicts with these provisions of the EO, since there is no legal basis for the wholesale suspension of immigration benefits.

Section 3(c) – Need to consider guidance concerning the issuance of travel documents (advance parole, refugee travel documents, perhaps reentry permits) for nationals of the 7 countries.

Ron Whitney
Deputy Chief, Refugee and Asylum Law Division
USCIS, Office of the Chief Counsel

[redacted] (b)(6)

From: Mandanas, Maria J (Joy)
Sent: Thursday, February 02, 2017 2:05 PM
To: Kleczek, Marguerite P (Ania); Whitney, Ronald W; Salem, Claudia S; Dalal-Dheini, Sharvari P (Shev); Zengotitabengoa, Colleen R; Hammill, Hunter A; Mcgee, Ramona L; Franke, Evan R; Zill, Katherine F; Tellawi, Heba K; Burkley, Bruce D; Zimonjic, Milica; Elder, Phillip D
Cc: Groom, Molly M; Busch, Philip B; OCC-Clearance; Hinds, Ian G; Carpenter, Dea D; OCC Regulations
Subject: RE: DUE TOMORROW by 11:30: Data Call on potential Regs Flowing from EO

Ania, I added a line regarding SAVE.

Joy Mandanas
Associate Counsel, Regulatory and Verification Law Division, Office of Chief Counsel, DHS/USCIS
20 Massachusetts Avenue, NW, Suite 6090, Washington, DC

[redacted] (b)(6)

From: Kleczek, Marguerite P (Ania)
Sent: Thursday, February 02, 2017 4:53 PM
To: Whitney, Ronald W; Salem, Claudia S; Dalal-Dheini, Sharvari P (Shev); Zengotitabengoa, Colleen R; Hammill, Hunter A; Mcgee, Ramona L; Franke, Evan R; Zill, Katherine F; Tellawi, Heba K; Mandanas, Maria J (Joy); Burkley, Bruce D; Zimonjic, Milica; Elder, Phillip D
Cc: Groom, Molly M; Busch, Philip B; OCC-Clearance; Hinds, Ian G; Carpenter, Dea D; OCC Regulations
Subject: RE: DUE TOMORROW by 11:30: Data Call on potential Regs Flowing from EO

One more clarification from Christina that just came in. The data call covers both regs and "significant guidance documents." So that means that if we think a significant guidance document would be necessary to implement the EO section, then we should identify that. If a reg, then the reg citation.

Thanks again!

From: Kleczek, Marguerite P (Ania)
Sent: Thursday, February 02, 2017 4:42 PM
To: Whitney, Ronald W; Salem, Claudia S; Dalal-Dheini, Sharvari P (Shev); Zengotitabengoa, Colleen R; Hammill, Hunter A; Mcgee, Ramona L; Franke, Evan R; Zill, Katherine F; Tellawi, Heba K; Mandanas, Maria J (Joy); Burkley, Bruce D; Zimonjic, Milica; Elder, Phillip D
Cc: Groom, Molly M; Busch, Philip B; OCC-Clearance; Hinds, Ian G; Carpenter, Dea D; OCC Regulations
Subject: RE: DUE TOMORROW by 11:30: Data Call on potential Regs Flowing from EO

Thanks Ron and Phil for your responses!

When responding, please respond to the group as you have been doing, or at least OCC Regulations, which I've now cc'd.

From: Whitney, Ronald W
Sent: Thursday, February 02, 2017 4:37 PM
To: Kleczek, Marguerite P (Ania); Salem, Claudia S; Dalal-Dheini, Sharvari P (Shev); Zengotitabengoa, Colleen R; Hammill, Hunter A; Mcgee, Ramona L; Franke, Evan R; Zill, Katherine F; Tellawi, Heba K; Mandanas, Maria J (Joy); Burkley, Bruce D; Zimonjic, Milica; Elder, Phillip D
Cc: Groom, Molly M; Busch, Philip B; OCC-Clearance; Hinds, Ian G; Carpenter, Dea D
Subject: RE: DUE TOMORROW by 11:30: Data Call on potential Regs Flowing from EO

A couple of thoughts below.

Ron Whitney
Deputy Chief, Refugee and Asylum Law Division
USCIS, Office of the Chief Counsel

(b)(6)

From: Kleczek, Marguerite P (Ania)
Sent: Thursday, February 02, 2017 12:59 PM
To: Salem, Claudia S; Dalal-Dheini, Sharvari P (Shev); Zengotitabengoa, Colleen R; Whitney, Ronald W; Hammill, Hunter A; Mcgee, Ramona L; Franke, Evan R; Zill, Katherine F; Tellawi, Heba K; Mandanas, Maria J (Joy); Burkley, Bruce D; Zimonjic, Milica; Elder, Phillip D
Cc: Groom, Molly M; Busch, Philip B; OCC-Clearance; Hinds, Ian G; Carpenter, Dea D
Subject: DUE TOMORROW by 11:30: Data Call on potential Regs Flowing from EO
Importance: High

OGC Regs (Christina McDonald) got together CBP, ICE, and USCIS regs POCs to discuss a Regs working group that Christina was asked to lead. Note that there are other working groups at work going over other issues. What Christina has asked the three components to do is provide a preliminary list of potential new regs or revisions to existing regs affected by the attached 3 Executive Orders. We need SMEs help to identify potential regs. This preliminary list is due tomorrow noon to Christina, but we'll need to send over any suggestions to USCIS Regulatory Coordination Division (RCD – Sam Deshommes) a little earlier than that so that she can have time to send over the response for USCIS.

Christina is putting together a preliminary list to start things off. Here are some of preliminary thoughts as to where USCIS may need to start rulemaking actions. Could you fill in below (in a different color) possible 8 CFR cites for regs that may need to be amended or list what new regs might need to be promulgated?

EO 13768 – Public Safety in the Interior

Sec. 6 – Civil Fines and Penalties

CBP said that they impose fines against carriers. ICE mentioned INA 274C (document fraud – and mentioned Warren McBroom). I vaguely remember something about nonimmigrants having a requirement to post a bond?! Not sure if that qualifies or what provision, but could someone look into that? Any other ideas?

Sec. 9(a) (last sentence) – Sanctuary Jurisdictions (8 USC 1373) – SAVE involvement? Maybe too remote, but just raising the possibility. Use of SAVE for immigration status queries is currently limited to benefit applications made to federal, state and local agencies (with few exceptions), so expanded uses of SAVE under 1373 would require changes to their requirements, processes and their Program Guidance.

Sec. 10(b) Very broad order for us to review regs, policies, and procedures for consistency with the order and publish regs rescinding or revising any reg inconsistent with the order

Sec. 12 Recalcitrant Countries – INA section 243(d) (ALD?)

Sec. 14 – Privacy Act: Christina said that this is being worked on by a separate working group, so we do not have to worry about it.

EO 13769 – Foreign Terrorist Entry

Sec. 4(a) Implementing Uniform Screening Standards

- Uniform screening standard and procedure, such as in-person interviews
New biometrics rule amending 8 CFR 103.2(b)(9) and 103.16; 103.17
- Amended application form that include questions aimed at identifying fraudulent answers and malicious intent
- Mechanism to ensure that the applicant is who the applicant claims to be
New biometrics rule amending 8 CFR 103.2(b)(9) and 103.16; 103.17

Sec. 6 Rescission of Exercise of Authority Relating to the Terrorism Grounds of Inadmissibility

- Christina thought this was about TRIG. This is about TRIG, but doesn't require any regulatory action. Our TRIG working group is already looking at this and preparing for future discussions with the Department and the interagency.

EO 13767 Border Security and Imm Enf

Sec. 11(b): 8 CFR 208.30 and 31 - Credible fear and reasonable fear determinations (RALD—are regs revisions required?) I don't see any need for regulatory changes, but the Asylum Division is working on revisions to its

Credible Fear lesson plan in response to this. That's not to say that there won't be a push for regulatory changes, but there's nothing here that isn't consistent with the plain language of the statute.

11(d): Parole authority – must be case-by-case in accordance with the plain language of the statute

- 8 CFCR 103.7 Bundled fees for adjustment applicants?

- We think 8 CFR 212.5 might be affected, but need to study the issue further.

11(c): Applying Expedited Removal to applicants for admission present for less than 2 years. Requires a FR notice, but this is primarily a CBP/ICE matter, but it will affect asylum officer resources.

Please send in any ideas that you have ASAP. Sorry for the quick turnaround. Our answer could be something like – we think 8 CFR XXXX might be affected, but we need to study the issue further.

Thanks,
Ania

*Marguerite (Ania) P. Kleczek
Chief, Regulatory and Verification Law Division
Office of the Chief Counsel, USCIS*

[Redacted]
(b)(6)

Shirk, Georgette L

From: Zengotitabengoa, Colleen R
Sent: Wednesday, February 01, 2017 8:12 AM
To: Groom, Molly M; Whitney, Ronald W.
Subject: RE: EO

That would be my argument but can focus on this today.

From: Groom, Molly M
Sent: Wednesday, February 01, 2017 7:34:36 AM
To: Zengotitabengoa, Colleen R; Whitney, Ronald W
Subject: FW: EO

(b)(5)

Any good arguments regarding why section 3 doesn't cover refugees? [redacted]

[redacted] Anyway can this be a top priority today?

From: Benedict, Deborah L
Sent: Tuesday, January 31, 2017 7:31:12 PM
To: Groom, Molly M
Subject: RE: EO

Having other departments weigh in might help (and the below is just based on my reading, maybe State has something stronger!).

From: Groom, Molly M
Sent: Tuesday, January 31, 2017 7:29 PM
To: Benedict, Deborah L
Subject: RE: EO

They dismissed any argument Friday night. But maybe they will reconsider.

From: Benedict, Deborah L
Sent: Tuesday, January 31, 2017 7:21:20 PM
To: Groom, Molly M
Subject: RE: EO

(b)(5)

Nope unfortunately not [redacted]

From: Groom, Molly M
Sent: Tuesday, January 31, 2017 7:11 PM

To: Benedict, Deborah L

Subject: RE: EO

She told me who the lawyer was but didn't provide her reasoning—do you have that?

From: Benedict, Deborah L

Sent: Tuesday, January 31, 2017 7:08 PM

To: Groom, Molly M

Subject: EO

Assuming Barbara reached you regarding the State lawyer's interpretation of the EO Section 3?

Shirk, Georgette L

From: Groom, Molly M
Sent: Wednesday, February 01, 2017 11:11 AM
To: Whitney, Ronald W; Zengotitabengoa, Colleen R
Subject: RE: EO

You were on the reply—did you get it?

From: Whitney, Ronald W
Sent: Wednesday, February 01, 2017 12:09 PM
To: Groom, Molly M; Zengotitabengoa, Colleen R
Subject: RE: EO

Did you ever hear back from Meg?

From: Groom, Molly M
Sent: Wednesday, February 01, 2017 4:35 AM
To: Zengotitabengoa, Colleen R; Whitney, Ronald W
Subject: FW: EO

(b)(5)

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Shirk, Georgette L

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Sent: Sunday, February 05, 2017 6:52 PM
To: Whitney, Ronald W; Busch, Philip B; Zengotitabengoa, Colleen R; Lonegan, Bryan K
Subject: RE: Follow up thoughts on litigation

It hasn't been decided what prioritizing means.

From: Whitney, Ronald W
Sent: Sunday, February 05, 2017 7:33:56 PM
To: Busch, Philip B; Groom, Molly M; Zengotitabengoa, Colleen R; Lonegan, Bryan K
Subject: RE: Follow up thoughts on litigation

(b)(5)

Go Falcons.

--Ron

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(b)(5)

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Sent: Sunday, February 05, 2017 1:30:44 PM
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Subject: RE: Follow up thoughts on litigation

(b)(5)

It may be and we will figure that out

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Sent: Sunday, February 05, 2017 12:37:04 PM

To: Zengotitabengoa, Colleen R; Groom, Molly M; Lonegan, Bryan K; Whitney, Ronald W

Subject: RE: Follow up thoughts on litigation

I was thinking about this question while churning up and down the Yorktown pool this morning.

(b)(5)

Phil

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Subject: RE: Follow up thoughts on litigation

Will do.

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To: Lonegan, Bryan K; Zengotitabengoa, Colleen R; Busch, Philip B; Whitney, Ronald W
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Subject: FW: Follow up thoughts on litigation

Colleen/Bryan/Ron-

Can you all dig deeper on this issue and continue the discussions with DOS. Meg P. wants to have discussion with DOJ establishment expert at that seems like good idea.

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(b)(5)

From: Strack, Barbara L
Sent: Sunday, February 05, 2017 8:44:37 AM
To: Groom, Molly M; Ruppel, Joanna; Stone, Mary M; Busch, Philip B
Subject: Follow up thoughts on litigation

All -

I wanted to follow up w/you on some issues related to yesterday's litigation call, with the understanding that this communication is protected by attorney/client privilege. In particular, I want to focus on the "religious minority" language.

(b)(5)

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Wanted to share this thinking and bring Joanna and MM into the loop before I leave for vacation later today,
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(b)(5)

Just wanted to share this

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(b)(5)

--Ron

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Barbara

Shirk, Georgette L

From: Groom, Molly M
Sent: Monday, February 06, 2017 1:38 PM
To: Parikh, Reena; Zengotitabengoa, Colleen R; Whitney, Ronald W
Cc: Busenkell, Kathleen R (Katie); Allred, Esther R
Subject: RE: Need clarification ASAP on "Guidance Concerning Executive Order on Immigration"

Your understanding is correct—NACARA adjudications for persons in the US should proceed. Thanks

From: Parikh, Reena
Sent: Monday, February 06, 2017 2:31 PM
To: Zengotitabengoa, Colleen R; Whitney, Ronald W; Groom, Molly M
Cc: Busenkell, Kathleen R (Katie); Allred, Esther R
Subject: RE: Need clarification ASAP on "Guidance Concerning Executive Order on Immigration"

Dear Colleen, Ron, Molly:

We received the inquiry below from the asylum HQ NACARA POC. I'm not sure if RAIO previously advised the asylum offices (for that brief period) to hold off on all I-881 adjudications or something (which would be odd because the applicants typically aren't from the affected countries in the EO). Regardless, per Lori's attached guidance on the EO, it seems as if the adjudication of NACARA 203 applications should continue as per usual as the I-881 is an application and NACARA applicants are "individuals in the United States" per the language in the 1st paragraph of Lori's guidance.

Please advise at your earliest convenience.

Thanks so much,
Reena

From: Picciotto, Giacomo A
Sent: Monday, February 06, 2017 2:16 PM
To: Parikh, Reena
Cc: Busenkell, Kathleen R (Katie); Allred, Esther R
Subject: Need clarification ASAP on "Guidance Concerning Executive Order on Immigration"

Reena,
Can you please advise me if based on this attached memo asylum offices can continue to adjudicate applications filed for suspension of deportation and cancellation of removal under NACARA 203?

In the first enumerated paragraph, the first sentence indicates that the E.O. "does not affect USCIS adjudications of applications and petitions filed for or on behalf of individuals in the United States [...]"

As the I-881 if filed by persons who claim eligibility for NACARA 203, I'm not sure that it falls under the category of "applications [...] filed for or on behalf of individuals in the United States."

The last sentence of first paragraph ("this includes, but is not limited to [...]") does not clarify the question as it isn't clear to what "this" refers.

I need to advise all offices as soon as possible. Thank you for your help.

Giacomo A. Picciotto

HO-Asylum Division – Operations

(Mondays, Wednesdays, Fridays)

Tuesdays and Thursdays: by email or Skype only

(b)(6)

This communication, along with any attachments, is covered by federal and state law governing electronic communications and may contain confidential and legally privileged information. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, use or copying of this message is strictly prohibited. If you have received this in error, please reply immediately to the sender and delete this message. Thank you.

Shirk, Georgette L

From: Schwartz, Claudia R
Sent: Monday, February 06, 2017 3:54 PM
To: Groom, Molly M
Cc: Zengotitabengoa, Colleen R; Whitney, Ronald W
Subject: RE: TRIG points for PCC

Molly –

Below are some thoughts on litigation risks on revocation/rescission per our brief conversation. This chain below also includes some correspondence between Brandon and Joanna about tomorrow's Transborder PCC meeting. (b)(5)

[Redacted]

Let me know if anything else would be helpful,
Claudia

Claudia Schwartz, Associate Counsel
Office of the Chief Counsel, Refugee and Asylum Law Division
U.S. Citizenship and Immigration Services
Department of Homeland Security

[Redacted] (b)(6) [Redacted]

From: Ruppel, Joanna
Sent: Monday, February 06, 2017 4:00 PM
To: Prelogar, Brandon B
Cc: Sohrakoff, Karen A; Schwartz, Claudia R; Anderson, Kathryn E
Subject: RE: TRIG points for PCC

Tremendously helpful! Thank you. Do you have any sense of the DHS position here?

Also, with respect to your prior email, we should have our final RAIO task tracker done by tomorrow and I will share with you, then we can discuss how best to collaborate.

Joanna

Joanna Ruppel
Acting Associate Director
USCIS Refugee, Asylum and International Operations Directorate

[Redacted] (b)(6)

From: Prelogar, Brandon B
Sent: Monday, February 06, 2017 3:53 PM
To: Ruppel, Joanna
Cc: Sohrakoff, Karen A; Schwartz, Claudia R; Anderson, Kathryn E
Subject: TRIG points for PCC

Joanna,

I know Karen updated you on the work we've initiated with State relating to the TRIG directive in the EO. We were just discussing and thinking that for tomorrow's PCC it may be helpful to arm you with a couple points to help guide consensus on the appropriate course of action responsive to the directive, insofar as you have a chance to weigh in. On process, our thinking is that the most thoughtful result is likely to follow from bilateral collaboration between USCIS and State – i.e., the other USG entity with experience applying the exemptions to actual cases – followed by broader

interagency consultation based on what is hopefully a joint State-DHS (i.e., USCIS) analysis and recommendation. In the event that there is a call for a WH-driven process, our hope is that (1) Multilat leads it, as that directorate traditionally has with respect to TRIG, and (2) some time is permitted to allow the State-USCIS collaboration to take place first. I'm touching base with Sarah Cross (Ronnie's successor) tomorrow and plan to advocate the same with her. Let me know if you want to discuss or think a different course makes sense, though.

Here are TPs that briefly highlight our work and suggest a path forward:

- In response to EO Section 6, which requires considering rescission of existing exercises of authority for TRIG exemptions, DHS and State have begun working on a joint review process to assess the value of the exercises of authority. The review process will take into account factors such as their utility in adjudications, national security implications, and foreign policy considerations. The aim of this work is to arrive at a joint, evidence-based, working-level analysis responsive to Section 6's directive. We would then share this with DOJ for consultation, as set out in the EO, with the aim of arriving at a consensus recommendation for our departments' respective leadership.
- *[If asked for an estimate of how long it would take us to produce the analysis]:* For USCIS' part, if State agrees, we think we could have something preliminarily developed at the working-level in 2-3 weeks.

Hope that helps, and good luck tomorrow!

Brandon Prelogar
Chief, International and Humanitarian Affairs Division
Department of Homeland Security/U.S. Citizenship and Immigration Services
Office of Policy and Strategy

(b)(6)

Shirk, Georgette L

From: Zimonjic, Milica
Sent: Friday, February 03, 2017 10:32 AM
To: Deshommes, Samantha L
Cc: Kleczek, Marguerite P (Ania); Groom, Molly M; Busch, Philip B; Carpenter, Dea D; Dalal-Dheini, Sharvari P (Shev); Whitney, Ronald W; Hinds, Ian G; Elder, Phillip D; Mandanas, Maria J (Joy); Levine, Laurence D; Rigdon, Jerry L; Danzy, Alford L (AI); OCC Regulations; Tellawi, Heba K; Burkley, Bruce D
Subject: RE: Urgent Request: Possible Regulatory Action related to the Executive Orders on Immigration - Due 2/3, 12 Noon
Attachments: Regs and Guidance Chart_OCC_020317.docx
Importance: High

Hi Sam,

Attached is consolidated (preliminary) OCC input on regulations/guidance that may be needed to implement the three executive orders. We've used the chart supplied by Christina to organize our responses - you will see our additions in pink.

(b)(5)

Please let us know if you have questions.

Thank you.

Millie Zimonjic
Associate Counsel
Regulatory and Verification Law Division
Office of Chief Counsel
U.S. Citizenship and Immigration Services
Department of Homeland Security
20 Massachusetts Avenue, NW, 4th Floor
Washington, DC 20529-2120

(b)(6)

From: Deshommes, Samantha L
Sent: Thursday, February 02, 2017 5:36 PM
To: Ruppel, Joanna; Kleczek, Marguerite P (Ania); Strack, Barbara L; Lafferty, John L
Cc: Levine, Laurence D; Rather, Michael B; Tynan, Natalie S; Rigdon, Jerry L; Danzy, Alford L (AI); Zimonjic, Milica; OCC Regulations; Nicholson, Maura J; Palmer, Ann M
Subject: RE: Urgent Request: Possible Regulatory Action related to the Executive Orders on Immigration - Due 2/3, 12 Noon

Additionally, question for the team based on OCC's responses. Will the entry for Section 11b of EO 13767 have any impact on the RAIO regulation currently on the USCIS Priority List for action (removing the 10-day requirement for reasonable fear screenings)?

Samantha Deshommes
Chief, Regulatory Coordination Division
USCIS, Office of Policy & Strategy

[redacted] (b)(6)

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From: Ruppel, Joanna
Sent: Thursday, February 02, 2017 5:33 PM
To: Kleczek, Marguerite P (Ania); Deshommes, Samantha L; Strack, Barbara L; Lafferty, John L
Cc: Levine, Laurence D; Rather, Michael B; Tynan, Natalie S; Rigdon, Jerry L; Danzy, Alford L (AI); Zimonjic, Milica; OCC Regulations; Nicholson, Maura J; Palmer, Ann M
Subject: RE: Urgent Request: Possible Regulatory Action related to the Executive Orders on Immigration - Due 2/3, 12 Noon

I think we also want to add the asylum regulations that govern following-to-join cases. Can you add that?

Joanna

Joanna Ruppel
Acting Associate Director
USCIS Refugee, Asylum and International Operations Directorate

[redacted] (b)(6)

From: Kleczek, Marguerite P (Ania)
Sent: Thursday, February 02, 2017 5:21 PM
To: Deshommes, Samantha L; Ruppel, Joanna; Strack, Barbara L; Lafferty, John L
Cc: Levine, Laurence D; Rather, Michael B; Tynan, Natalie S; Rigdon, Jerry L; Danzy, Alford L (AI); Zimonjic, Milica; OCC Regulations
Subject: RE: Urgent Request: Possible Regulatory Action related to the Executive Orders on Immigration - Due 2/3, 12 Noon

All—

OCC RALD was looking at this and thus far, has come up with the following:

EO 13769 – Foreign Terrorist Entry

Sec. 6 Rescission of Exercise of Authority Relating to the Terrorism Grounds of Inadmissibility

- Christina thought this was about TRIG
- OCC RALD: This is about TRIG, but doesn't require any regulatory action. Our TRIG working group is already looking at this and preparing for future discussions with the Department and the interagency.

EO 13767 Border Security and Imm Enf

Sec. 11(b): 8 CFR 208.30 and 31 - Credible fear and reasonable fear determinations

OCC RALD: No need for regulatory changes, but the Asylum Division is working on revisions to its Credible Fear lesson plan in response to this. That's not to say that there won't be a push for regulatory changes, but there's nothing here that isn't consistent with the plain language of the statute.

11(d): Parole authority – must be case-by-case in accordance with the plain language of the statute

We think 8 CFR 212.5 might be affected, but need to study the issue further.

11(c): Applying Expedited Removal to applicants for admission present for less than 2 years. Requires a FR notice, but this is primarily a CBP/ICE matter, but it will affect asylum officer resources.

Thanks,

Ania

Marguerite (Ania) P. Kleczek

Chief, Regulatory and Verification Law Division

Office of the Chief Counsel, USCIS

[REDACTED] (b)(6)

From: Deshommes, Samantha L

Sent: Thursday, February 02, 2017 5:15 PM

To: Ruppel, Joanna; Strack, Barbara L; Lafferty, John L

Cc: Levine, Laurence D; Rather, Michael B; Tynan, Natalie S; Rigdon, Jerry L; Danzy, Alford L (AI); Kleczek, Marguerite P (Ania)

Subject: Urgent Request: Possible Regulatory Action related to the Executive Orders on Immigration - Due 2/3, 12 Noon

Importance: High

Good Afternoon RAIO,

Following issuance of the attached Executive Orders (EOs), there have been a number of working groups that have been stood up in the Department to effect implementation. One such group is being chaired by OGC Regulatory Affairs and is tasked with identifying and managing the various regulatory actions that may be needed to implement provisions of these Orders. Ania and I just finished a conference call with them and need some information from you to complete an urgent tasker on possible regulatory actions needed to implement the EO.

On first glance, I think the Parole, Asylum, Reasonable Fear, and Credible Fear provisions of EO 13767, Section 11 will definitely have regulatory implications for RAIO; however, there could be other provisions that I'm overlooking in the other EO. Could you please take a look at the attached EO, if you haven't already, and at minimum identify what specific EO provision is likely to require regulatory changes and the regulatory citation, if known?

DHS needs this information from us by 12 noon tomorrow, so I'd appreciate any assistance you can give in just quickly identifying those items. At this point, your response doesn't need to be any more expansive than the following, for example:

- EO 13767, Section 11: 8 CFR XXX.XX – Update Reasonable Fear regulations to [insert]
- EO 13767, Section 11: 8 CFR XXX.XX – Update asylum regulations to [insert]
-

I apologize in advance for the short turnaround on this, and have already requested a delay and been denied. Even if you don't have an idea of the regulatory citation or it depends on the ultimate policy and it is just a possibility, that's fine at this point...

Please let me know if you have any questions.

Thanks,
Samantha

Samantha Deshommes
Chief, Regulatory Coordination Division
USCIS, Office of Policy & Strategy

[Redacted]
(b)(6)

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Regulations Required by Immigration Executive Orders
USCIS OCC Input

Section from EO	Regulation, Guidance, or Notice?	Applicable Cite (statute or reg)	Lead Component	Required coordination with:
Sec. 1 Purpose Paragraph 2 - Transnational criminal organizations operate sophisticated drug- and human trafficking networks and smuggling operations on both sides of the southern border, contributing United States citizens to illegally enter or acts of terror or	USCIS may need to be update relevant regulations which relate to the entry of American Indians born in Canada.	8 CFR 289 (b)(5)	USCIS	
Sec. 6. Detention immediately take of aliens apprehended, the outcome of the country to to issue new policy appropriate and under the INA, including the termination of the practice commonly known as "catch and release," whereby aliens are routinely released into the United States shortly after their apprehension for violations of immigration law.	memo, not necessarily Policy Guidance.	ICF	CBP	
Sec. 7. Return to Territory. The Secretary shall take appropriate action, consistent with the requirements of section 1231 of Title 8 USC, to ensure that aliens described in section 235(b)(2)(C) of the INA are returned to the territory from which they came pending a formal removal proceeding.	[Paragraph 6 on TF Document] [Paragraph 7 on TF Document] Identifies CBP requirement to develop "implementation plan."	Regulations or Guidance – Need more policy direction.	CBP	
Sec. 11. Parole, Asylum, and Removal. It is the policy of the	Notice in Federal Register.	OGC	CBP, ICE, USCIS	

executive branch to end the abuse of parole and asylum provisions currently used to:	(This is similar to Expedited Removal notices that DHS published on Nov 13, 2002, Aug 11, 2004, & Jan 17, 2017.)		
Sec. 11. Parole, Asylum, and Removal (a) The Secretary shall immediately take all appropriate action to ensure that the parole and asylum provisions of Federal immigration law are not illegally exploited to prevent the removal of otherwise removable aliens.	Asylum regulations that govern following-to-join cases	8 CFR 208.21(d)	(b)(5)
Sec. 11. Parole, Asylum, and Removal (b) The Secretary shall take all appropriate action, including by promulgating any appropriate regulations, to ensure that asylum referrals and q <u>uotidians for determination of removable status</u> 235(b)(1) of the reasonable fees conducted in those provisio	Regulation. Credible Fear - USCIS OCC does not believe that it can be applied to the regulations.	8 U.S.C. 1125(b)(1); 8 CFR 208.30; 8 CFR 208.31	USCIS CBP, ICE, DOJ (if made during proceedings)
Sec. 11. (c) Pursuant to section 235(b)(1)(A)(iii)(I) of the INA, the Secretary shall take appropriate action to apply, in his sole and unreviewable discretion, the provisions of section 235(b)(1)(A)(i) and (ii) of the INA to the aliens designated under section 235(b)(1)(A)(iii)(II).	applicants for admission present for less than 2 years. Requires a Federal Register notice, but this is primarily a CBP/ICE matter, but it will affect asylum officer resources.	Guidance? Regulation? Notices in FR? Need more policy direction.	USCIS 8 U.S.C. 1182(d)(5) 8 CFR 212.5 8 CFR 212.12 8 CFR 212.14 8 CFR 103.7(FFF); 212.19 (IIR, not yet effective but

<p>parole:</p> <p>through guidance: Regulatory:</p> <p>Parole for Mariel Cubans Parole for alien witnesses and informants for whom S classification will be requested International Entrepreneur Parole (not yet in effect)</p> <p>Federal Register Notice/Guidance: Filipino World War II Veterans Parole (FWVP) Haitian Family Reunification Parole (HFRP) Cuban Family Reunification Parole</p>	<p>published as 81 FR 60129)</p> <p>(b)(5)</p>	
	<p>Northern Mariana Islands (CNMI) Advanced Parole for individuals in the United States</p> <p>[Paragraph 11 of TF Document identifies USCIS as lead]</p>	<p>8 U.S.C. 1232; 6 U.S.C. 279(b)(2)</p> <p>CBP (for screening), USCIS (for asylum), ICE (transp)</p>
<p>Sec. 11. Parole, Asylum, and Removal</p> <p>(e) The Secretary shall take appropriate action to require that all Department of Homeland Security personnel are properly trained on the proper application of section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232) and section 462(g)(2) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)(2)), to ensure that</p>		

unaccompanied alien children are properly processed, receive appropriate care and placement while in the custody of the Department of Homeland Security, and, when appropriate, are safely repatriated in accordance with law.		

Section	Requirement for Regs	Cite (statute or reg)	Lead Component	Required coordination with:
Sec. 5. Enforcement Priorities	<p>[Paragraph 1 of TF Document identifies ICE as issuing guidance directing application of the new enforcement priorities and rescinding prior guidance]</p> <p>May impact "Section V. Cases Involving</p>	<p>November 7, 2011 Policy Memorandum PM-602-0050 titled "Revised Guidance for the Referral of Cases and Issuance of Notices to</p> <p>(b)(5)</p>	USCIS/ICE	<p>"one revised memo that have been circulating internally.</p> <p>Paragraph (d) This provision may impact the following regulations: 8 C.F.R. 103.2(b)(6)(currently there is disagreement whether or not a withdrawal permits the agency to make a fraud or misrepresentation determination despite the withdrawal), 8 C.F.R. 103.2(b)(16) (derogatory information unknown to the applicant would sometimes include allegations of</p>

	<p>fraud/misrepresentation and consequences of it). We already have regulations about fraud/misrepresentation for invalidating labor certs in 20 C.F.R. 656.31 but that's DOL's regulation that impacts USCIS/DOS. And the new AC21 rule updated automatic revocation authority/priority date retention excluding cases of fraud/misrepresentation.</p>	(b)(5)	CBP (may also have fines & penalties here;	
Sec. 6. Civil Fines and Penalties. As soon as practicable, and by no later than one year after the date of this order, the Secretary shall issue by law, to enforce penalties that and collect from the	Regulations. USCIS OCC believes that DHS may want 1224c	INA 274C; 8 U.S.C. 1224c	USCIS/ICE	CBP (may also have fines & penalties here;
	Department of State also has regulations on this (22 CFR 41.11(b)) and this issue is addressed in the FAM.)		FEMA (?)/USCIS	Per paragraph 5 of [F Document] FEMA (developing process for notification to jurisdictions that will lose federal
Sec. 9. Sanctuary Jurisdictions.	Potentially regulation to develop process and criteria for identifying a jurisdiction as a "sanctuary jurisdiction."			

(a) In furtherance of this policy, the Attorney General and the Secretary, in their discretion and to the extent consistent with law, shall ensure that jurisdictions that wilfully refuse to comply with 8 U.S.C. 1373 (sanctuary jurisdictions) are not eligible to receive Federal grants, except as deemed necessary for law enforcement purposes by the Attorney General or the Secretary.

<u>The Secretary has the authority to designate, in his discretion and to the extent consistent with law, a jurisdiction as a sanctuary jurisdiction.</u>	use of SAVE for immigration status queries is currently limited to benefit applications made to federal, state and local agencies (with few exceptions), so expanded uses of SAVE under 1373 would require changes to their requirements, processes and their Program Guidance.	(b)(5)	Grants)
Sec. 10. Review of Previous Immigration Actions and Policies (b) The Secretary shall review agency regulations, policies, and procedures for consistency with this order and, if required, publish for notice and comment proposed regulations rescinding or revising any regulations inconsistent with this order and shall consider whether to withdraw or modify any inconsistent policies and procedures, as appropriate and consistent.	Review existing regs, policies, guidance docs, directives, memoranda, and field guidance to determine whether any of those documents are in conflict with 1) the EO 2) the PEP or 3) the rescinded November 20, 2014 memo.	8 CFR 204.5(p) USCIS, CBP, ICE	
	possible regulations impacted may be: AC21 Compelling Circumstances EAD Paragraph 6 on TF Document		ICE
Sec. 10. Review of Previous Immigration Actions and Policies (b) To protect our communities and better facilitate the identification, detention, and removal of criminal aliens within constitutional and statutory parameters, the Secretary shall consolidate and revise any applicable forms to more effectively communicate with recipient law enforcement agencies.	Regulations or Guidance, as necessary, to be consistent with these revised Forms I-247D, I-247N, & I-247X		

Sec. 11.	Regulation removing the 10-day rule	8 CFR 208.31(b)	USCIS
(a) The Secretary shall immediately take all appropriate action to ensure that the parole and asylum provisions of Federal immigration law are not illegally exploited to prevent the removal of otherwise removable aliens. (b) The Secretary shall take all appropriate action, including by promulgating any appropriate regulations, to ensure that asylum referrals and credible fear determinations pursuant to section 235(b)(1) of the INA (8 U.S.C. 1125(b)(1)) and 8 CFR 208.30, and reasonable fear determinations pursuant to 8 CFR 208.31, are conducted in a manner consistent with the plain language of those provisions.	(b)(5)		
Sec. 12 Recalcitrant Countries	See also the 'eligible country list provisions in our regulations re H-2A	8 CFR 214.2(h)(5)(ii)(F)	USCIS
The Secretary of Homeland Security and the Secretary of State shall cooperate to effectively implement the sanctions by section 243(d) of the INA (8 U.S.C. 1253(d)), as appropriate. The Secretary of State shall, to the maximum extent possible, ensure that diplomatic efforts and negotiations with states include as a condition precedent the acceptance of foreign states of their nationals who are subject to restrictions in the United States.			
Sec. 14 Privacy Act	Agencies shall, to the extent consistent with applicable law, ensure that their privacy policies exclude persons who are United States citizens or lawful permanent residents from the protections of the Privacy Act regarding personally identifiable information.	214, if 8 USC 1367 does not require as much as what we have provided.	

Executive Order 13769: Protecting the Nation from Foreign Terrorist Entry into the United States

Section	Requirement for Regs or Guidance	Cite (statute or reg)	Lead Component	Required coordination with:
Sec. 4. Implementing Uniform Screening Standards for All Immigration Programs (a) The Secretary of State, the Secretary of Homeland Security, the Director of National Intelligence, and the Director of the Federal Bureau of Investigation shall implement a program, as part of the adjudication process for immigration benefits, to identify individuals seeking to enter the United States on a fraudulent basis with the intent to cause harm, or who are at risk of causing harm.	Potentially regulation. USCIS currently has a draft Biometric rule in process that may be applicable to Sec. 4(a). USCIS would pursue a new biometrics regulation for identity management and other purposes amending existing regulatory provisions.	8 CFR 103.2(b)(9) 8 CFR 103.16 8 CFR 103.17 8 CFR 207	USCIS	CBP
		(b)(5)	positively contributing member of society and the applicant's ability to make contributions to the national interest"	Adding "a mechanism to ensure that the applicant is who the applicant claims to be" will require codifying the SIV-CIT process and 100% biometrics for use in identity management. USCIS may need to amend 8 CFR 207 after we, "determine what additional

completion and implementation of a biometric entry-exit tracking system for all travelers to the United States, as recommended by the National Commission on Terrorist Attacks Upon the United States.		

Shirk, Georgette L

From: Elder, Phillip D
Sent: Tuesday, February 07, 2017 2:52 PM
To: Whitney, Ronald W; Zengotitabengoa, Colleen R; Hammill, Hunter A
Subject: RE: URGENT TIME SENSTIIVE: Proposed Language for CAM parolees

I don't know, but we may want to prepare for that possibility. Meanwhile, we still need to decide on how we will communicate termination of the CAM program.

From: Whitney, Ronald W
Sent: Tuesday, February 07, 2017 3:34 PM
To: Elder, Phillip D; Zengotitabengoa, Colleen R; Hammill, Hunter A
Subject: RE: URGENT TIME SENSTIIVE: Proposed Language for CAM parolees

Have we conveyed our comments? Presumably, this won't be posted unless Section 5(a) of the EO is put back in place?

Ron Whitney
Deputy Chief, Refugee and Asylum Law Division
USCIS, Office of the Chief Counsel

[redacted] (b)(6)

From: Elder, Phillip D
Sent: Tuesday, February 07, 2017 6:13 AM
To: Zengotitabengoa, Colleen R; Hammill, Hunter A; Whitney, Ronald W
Subject: RE: URGENT TIME SENSTIIVE: Proposed Language for CAM parolees

Okay. I don't have any major concerns with Joanna's draft below, but wondered if we wanted to announce the possibility of an exemption so prominently. I also think "called for an immediate suspension" is a bit soft. I thought the EO did more called for it rather it "immediately suspended." But if this is approved to post, it is fine, legally.

From: Zengotitabengoa, Colleen R
Sent: Tuesday, February 07, 2017 9:02 AM
To: Hammill, Hunter A; Elder, Phillip D; Whitney, Ronald W
Subject: RE: URGENT TIME SENSTIIVE: Proposed Language for CAM parolees

Nothing went out, as far as I know. IO is looking for this language today, since they got permission for the parolees to travel this week, but looks like it's turned off after this week. Though we don't have confirmation of that yet.

From: Hammill, Hunter A
Sent: Tuesday, February 07, 2017 9:01 AM
To: Elder, Phillip D; Zengotitabengoa, Colleen R; Whitney, Ronald W
Subject: RE: URGENT TIME SENSTIIVE: Proposed Language for CAM parolees

I didn't see anything actually go out, and our website looks like it's not updated.

From: Elder, Phillip D
Sent: Tuesday, February 07, 2017 8:32:52 AM

To: Hammill, Hunter A; Zengotitabengoa, Colleen R; Whitney, Ronald W
Subject: RE: URGENT TIME SENSTIIVE: Proposed Language for CAM parolees

Did we issue anything on this?

From: Hammill, Hunter A
Sent: Friday, February 03, 2017 11:56 AM
To: Elder, Phillip D
Subject: FW: URGENT TIME SENSTIIVE: Proposed Language for CAM parolees

Can you look at this too?

From: Groom, Molly M
Sent: Friday, February 03, 2017 11:53 AM
To: Hammill, Hunter A; Whitney, Ronald W; Zengotitabengoa, Colleen R
Subject: RE: URGENT TIME SENSTIIVE: Proposed Language for CAM parolees

Oh yes—he was just here—I'm going too fast!

From: Hammill, Hunter A
Sent: Friday, February 03, 2017 11:50 AM
To: Groom, Molly M; Whitney, Ronald W; Zengotitabengoa, Colleen R
Subject: RE: URGENT TIME SENSTIIVE: Proposed Language for CAM parolees

Yes, I think it leaves open the question of winding down and concerns related to that on pipeline cases. Do you want me to run it be Phillip as well?

From: Groom, Molly M
Sent: Friday, February 03, 2017 11:42 AM
To: Hammill, Hunter A; Whitney, Ronald W; Zengotitabengoa, Colleen R
Subject: RE: URGENT TIME SENSTIIVE: Proposed Language for CAM parolees

Yes! You ok with suspension language?

From: Hammill, Hunter A
Sent: Friday, February 03, 2017 11:42 AM
To: Groom, Molly M; Whitney, Ronald W; Zengotitabengoa, Colleen R
Subject: RE: URGENT TIME SENSTIIVE: Proposed Language for CAM parolees

Should the language in the opening paragraph and the second bullet mimic the language in the first bullet ("whose parole requests have been approved by USCIS" versus "granted parole by USCIS") since CBP does the actual parole at the POE and would minimize suggestion that the entire parole process was already complete for them?

From: Groom, Molly M
Sent: Friday, February 03, 2017 11:35 AM
To: Whitney, Ronald W; Zengotitabengoa, Colleen R; Hammill, Hunter A
Subject: FW: URGENT TIME SENSTIIVE: Proposed Language for CAM parolees
Importance: High

Are we ok with the language—suspending parole? I think that accurately reflects what they are doing but any legal vulnerabilities?

From: Ruppel, Joanna
Sent: Friday, February 03, 2017 11:33 AM
To: Scialabba, Lori L; Renaud, Tracy L
Cc: Walters, Jessica S; Farnam, Julie E; Young, Todd P; Nicholson, Maura J; Benedict, Deborah L; Strack, Barbara L; Stone, Mary M; Chiorazzi, Anne; Groom, Molly M; Zengotitabengoa, Colleen R
Subject: URGENT-TIME-SENSTIIVE:-Proposed Language for CAM parolees
Importance: High

Here is our proposed language, based on what we understand the current thinking to be. Is this your understanding of the decision and can we message this as noted below? We have people scheduled to travel on Monday. IOM has booked and the beneficiaries have paid for their travel. Please note that approximately 190 people have booked travel. Of those, only one individual would be traveling with a refugee family member. [note, our numbers are from IOM, so we may be off a bit, but this is close]

SUSPENSION OF TRAVEL FOR INDIVIDUALS GRANTED PAROLE UNDER THE CENTRAL AMERICAN MINORS REFUGEE/PAROLE PROGRAM (CAM)

On January 27, 2017, President Donald J. Trump signed an Executive Order, "Protecting the Nation From Terrorist Entry into the United States" that called for an immediate suspension of the U.S. Refugee Admissions Program (USRAP) for 120 days. In light of this temporary suspension, USCIS will also be pausing travel to the United States for all individuals granted parole under the Central American Minors Refugee/Parole Program. USCIS will act as follows:

- During this suspension, an applicant whose parole request has been approved by USCIS will be permitted to travel with any refugee family member who is permitted to travel pursuant to an exemption.
- The travel for all other individuals who were granted parole by USCIS under this program will be suspended until the U.S. Refugee Admission Program resumes for this population.

Joanna Ruppel
Acting Associate Director
USCIS Refugee, Asylum and International Operations Directorate

[Redacted] (b)(6)

Shirk, Georgette L

From: Katz, Jonathan E
Sent: Thursday, February 02, 2017 5:54 PM
To: RALDGroup
Subject: Guidance
Attachments: EO 1-27 implementation guidance signed and dated.pdf

Just received this at ZLA. Some operational guidance that was issued today. This, among other things, allows for the adjudication of affirmative asylum applications under existing policies and procedures.

-- Jon

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of the Director (MS 2000)
Washington, DC 20529-2000



U.S. Citizenship
and Immigration
Services

FEB 2 2017

Memorandum

TO: All USCIS Employees

FROM: Lori L. Scialabba *Lori Scialabba*
Acting Director

SUBJECT: Guidance Concerning Executive Order on Immigration

On January 27, President Trump signed an Executive Order entitled "Protecting The Nation From Foreign Terrorist Entry Into The United States." This memorandum provides guidance from the Department of Homeland Security (DHS) regarding the impact of this Executive Order on various immigration benefit requests.

All USCIS employees should be aware of current guidance from DHS, specifically:

1. Section 3(c) of the Executive Order does not affect USCIS adjudication of applications and petitions filed for or on behalf of individuals in the United States regardless of their country of nationality. Section 3(c) also does not affect applications and petitions by lawful permanent residents outside the United States, or applications and petitions for individuals outside the United States whose approval does not directly confer travel authorization (including any immigrant or nonimmigrant visa petition). This includes, but is not limited to, the matters discussed more specifically in paragraphs 2, 3 and 5 below.
2. Applications to Register Permanent Residence or Adjust Status (Form I-485) may continue to be adjudicated, according to existing policies and procedures, for applicants who are nationals of countries designated in the Executive Order.
3. USCIS will adjudicate Refugee/Asylee Relative Petitions (Form I-730) for all beneficiaries, from any country of nationality, currently in the United States according to

existing policies and procedures. Further guidance will be issued with respect to beneficiaries currently outside of the United States.

4. USCIS will continue refugee interviews when the person is a religious minority in his or her country of nationality facing religious persecution. Additionally, USCIS will continue refugee interviews in jurisdictions where there is a preexisting international agreement related to refugee processing. USCIS will not approve a refugee application for an individual who we determine would pose a risk to the security or welfare of the United States.
5. USCIS will continue adjudicating all affirmative asylum cases according to existing policies and procedures.

Questions concerning the information contained in this memorandum may be addressed via your directorate or program office through appropriate supervisory channels.

Shirk, Georgette L

From: Groom, Molly M
Sent: Monday, February 06, 2017 7:53 PM
To: #CIS OCC ATTORNEY ALL
Subject: Litigation update on EO
Attachments: Reply in support of stay motion FINAL --as filed.pdf

Please find attached the government's reply filed this evening in Washington v. Trump. Shortly after this filing, we learned that the 9th Circuit scheduled oral argument tomorrow at 3 pm PST. There is a link for live streaming available which I can forward tomorrow.

No. 17-35105

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

STATE OF WASHINGTON, et al.,
Plaintiffs-Appellees,
v.

DONALD TRUMP, President of the United States, et al.
Defendants-Appellants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

**REPLY IN SUPPORT OF EMERGENCY
MOTION FOR STAY PENDING APPEAL**

EDWIN S. KNEEDLER*
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The Executive Order is a lawful exercise of the President's authority over the entry of aliens into the United States and the admission of refugees. Relying on his express statutory authority to suspend entry of any class of aliens to protect the national interest, the President has directed a temporary suspension of entries through the refugee program and from countries that have a previously identified link to an increased risk of terrorist activity, *see* 8 U.S.C. § 1187(a)(12). The purpose of that temporary suspension is to permit an orderly review and revision of screening procedures to ensure that adequate standards are in place to protect against terrorist attacks. As a different district court recently concluded, that objective provides a "facially legitimate and bona fide" justification that satisfies any constitutional scrutiny that applies. *Louhghalam v. Trump*, Civ. Action No. 17-10154-NMG, Order 18-19 (D. Mass. Feb. 3, 2017); *see id.* at 10-11, 15-16.

The district court therefore erred in entering an injunction barring enforcement of the order. But even if some relief were appropriate, the court's sweeping nationwide injunction is vastly overbroad, extending far beyond the State's legal claims to encompass numerous applications of the Order that the State does not even attempt to argue are unlawful.

1. As an initial matter, the State cannot challenge the denial of entry or visas to third-party aliens. It is well-settled that a State lacks authority to sue "as the representative of its citizens" to protect them from the operation of federal law.

Massachusetts v. Mellon, 262 U.S. 447, 485-86 (1923); *South Carolina v. Katzenbach*, 383 U.S. 301, 324 (1966). The State invokes the “special solicitude” for States referred to in *Massachusetts v. EPA*, but there, Massachusetts sought to enforce a congressionally created “procedural right” to protect a loss of “sovereign territory.” 549 U.S. 497, 519-20, 522-23 (2007). Here, by contrast, the State’s interest in protecting its own territory is not at issue. Instead, the Constitution vests the federal government with exclusive power over immigration for the Nation as a whole, and Congress did not create any “procedural right” for States to sue the federal government to challenge its decisions to deny the entry of (or revoke visas held by) third-party aliens.

To the contrary, an alien outside the United States has no substantive right or basis for judicial review in the denial of a visa at all. *See Brownell v. Tom We Shung*, 352 U.S. 180, 184 n.3, 185 n.6 (1956). Moreover, Congress has been clear that the issuance of a visa to an alien does not confer upon that alien any right of admission into the United States, 8 U.S.C. § 1201(h), and that the Secretary of State “may, at any time, in his discretion, revoke such visa or other documentation.” *Id.* § 1201(i). If a visa is revoked, even the alien himself has no right of judicial review “except in the context of a removal proceeding,” and only if the visa revocation “provides the sole ground for removal.” *Id.* And even an alien who has been admitted to and developed significant ties with this country, who has as a result come within the

protection of the Fifth Amendment's Due Process Clause, has no protected property or liberty interest in the retention of his visa. *Knoetze v. U.S. Dep't of State*, 634 F.2d 207, 212 (5th Cir. 1981). A fortiori, the State cannot challenge the revocation of third-party aliens' visas here. The State likewise cannot challenge the Executive's decision not to admit a refugee.

The Supreme Court's decisions in *Kerry v. Din*, 135 S. Ct. 2128 (2015), and *Kleindienst v. Mandel*, 408 U.S. 753 (1972), also do not support even limited judicial review of the State's claims here. In those cases, U.S. citizens sought review of the denial of a third-party visa on the ground that the citizens had an independent constitutionally-protected interest in the third-party's admission to the country—either a marital relationship or a First Amendment interest. The State, in contrast, has no independent constitutional rights to invoke with respect to the denial of admission of aliens affected by the Order.

2. Even if it could establish standing and a right of judicial review, the State would be unlikely to succeed on the merits of its claims.

a. Congress has granted the President broad discretion under 8 U.S.C. § 1182(f) to suspend the entry of "any class of aliens" into the United States, and independently broad discretion over the refugee program under 8 U.S.C. § 1157. The exclusion of aliens is also "a fundamental act of sovereignty * * * inherent in the executive power to control the foreign affairs of the nation." *United States ex*

rel. Knauff v. Shaughnessy, 338 U.S. 537, 542 (1950). The State does not address the text of § 1182(f), or the extensive caselaw relating to the exclusion of aliens from the United States. And although the State suggests (Response 23) that it is somehow impermissible for the President to rely on § 1182(f) “to impose a *categorical* ban on admission,” the statute’s broad grant of authority to suspend the entry “of any class of aliens,” “for such period as [the President] shall deem necessary,” whenever the President finds that it would be “detrimental to the interests of the United States,” clearly authorizes the categorical, temporary suspension the President has adopted here.

b. The State continues to argue that Section 3(c)’s temporary suspension of the entry of aliens from seven countries contravenes the restriction on nationality-based distinctions in 8 U.S.C. § 1152(a)(1)(A). But that restriction applies only to “the issuance of an immigrant visa,” *Id.*, not to the President’s restrictions on the right of entry. It also has no application at all to aliens who hold or seek *non-immigrant* visas, such as student visas or work visas. And § 1152(a)(1)(B) permits, as here, a temporary suspension of entry pending completion of a review and revision of procedures for processing visa applications.

Furthermore, even if it applied, § 1152(a)(1)(A) would not restrict § 1182(f)’s broad grant of discretionary authority. A court should, whenever possible, “interpret two seemingly inconsistent statutes to avoid a potential conflict,” *California ex rel.*

Sacramento Metro. Air Quality Mgmt. Dist. v. United States, 215 F.3d 1005, 1012 (9th Cir. 2000), and should interpret “the specific [to] govern[] the general.” *RadLAX Gateway Hotel v. Amalgamated Bank*, 132 S. Ct. 2065, 2070-71 (2012). Here, § 1152(a)(1)(A) establishes a general rule governing the issuance of immigrant visas, whereas § 1182(f) governs the specific instance in which the President determines that entry of a “class of aliens” would be “detrimental to the interests of the United States.” The State’s assertion that § 1152(a)(1)(A) limits that authority would mean that the President would be statutorily disabled from barring the entry of nationals of a country with which the United States was at war—a result that would raise serious constitutional questions, which is itself a sufficient reason to reject the State’s reading. See *Edward J. DeBartolo Corp. v. Florida Gulf Coast Building & Constr. Trades Council*, 485 U.S. 568, 575 (1988).

c. The State asserts that the Order violates the constitutional rights of lawful permanent residents (LPRs). Response at 10, 15 & n.3, 16. But the Order does not apply to LPRs. Exhibit D. It applies only to aliens who lack LPR status. And most of those aliens are outside the United States and have never been admitted to this country. The Supreme Court “has long held that an alien seeking initial admission to the United States requests a privilege and has no constitutional rights regarding his application.” *Landon v. Plasencia*, 459 U.S. 21, 32 (1982).

The State argues (Response 9) that “courts routinely review executive decisions with far greater security implications than this Order.” In those cases, however, the courts were reviewing government actions taken against individuals who had rights under the U.S. Constitution or federal statutes with respect to the adverse actions they faced. *See, e.g., Hamdi v. Rumsfeld*, 542 U.S. 507, 535 (2004) (plurality op.) (reviewing indefinite detention of U.S. citizen); *Boumediene v. Bush*, 553 U.S. 723 (2008) (reviewing detention of aliens held to have constitutionally protected interest in habeas corpus review). Those cases do not override the longstanding rule that aliens outside the United States have no right or interest in their admission to the United States protected by the Due Process Clause, *Knauff*, 338 U.S. at 543, or the rule that non-immigrants do not have a liberty or property interest in the retention of a visa.

d. The State’s constitutional challenges lack merit.

i. The State first asserts that the Order violates the Establishment Clause and equal protection principles because it was assertedly based on animus against Muslims. That is incorrect. There are two separate aspects of the Order challenged here, and both are neutral with respect to religion.

First, Section 3(c) temporarily suspends entry of aliens from seven countries previously identified under 8 U.S.C. § 1187(a)(12). Those countries were identified by Congress and the Executive Branch as being associated with a heightened risk of

terrorism. Congress itself identified Iraq and Syria, where “the Islamic State of Iraq and the Levant (ISIL) * * * maintain[s] a formidable force.” U.S. Department of State, *Country Reports on Terrorism 2015* 6 (June 2016). See 8 U.S.C. § 1187(a)(12)(A)(i)(I), (ii)(I). Congress also incorporated countries designated as state sponsors of terrorism: Iran, Sudan, and Syria. *Id.* § 1187(a)(12)(A)(i)(II) and (ii)(II). And in 2016, the Executive Branch added Libya, Somalia, and Yemen after a review that considered “whether the country or area is a safe haven for terrorists” and “whether the presence of an alien in the country or area increases the likelihood that the alien is a credible threat to the national security of the United States.” 8 U.S.C. § 1187(a)(12)(D)(iii); <https://www.dhs.gov/news/20016/02/18/dhs-announces-further-travel-restrictions-visa-waiver-program>.

Second, Section 5(a) temporarily suspends the refugee program as to refugees from *all* countries, not just the seven countries identified in Section 3(c). Section 5(b) further provides that, when the refugee program resumes, the Secretary of State shall “make changes, to the extent permitted by law, to prioritize refugee claims” by members of persecuted minority religions. Laws that “give relief to a religious minority” “are in tune with the Bill of Rights,” *Kong v. Scully*, 341 F.3d 1132, 1141 (9th Cir. 2003), and Section 5(b) of the Order applies equally to *all* religious minorities seeking refugee status “on the basis of religious-based persecution.” As the district court recognized in *Louhghalam*, Section 5(b) “could be invoked to give

preferred refugee status to a Muslim individual in a country that is predominantly Christian.” Order 13.²

Accordingly, as the district court held in *Louhghalam*, Order 13, the Executive Order is “neutral with respect to religion.” And under *Mandel*, the Order’s national-security basis for the temporary suspension amply establishes its constitutionality. *See also Louhghalam*, Order 18-19. The State asserts (Response 10) that the Court should “look behind” the stated basis for the Order to probe its subjective motivations because the State claims to have made “an affirmative showing of bad faith.” *Din*, 135 S. Ct. at 2141 (Kennedy, J., concurring). But the State’s allegations of bad faith are not meaningfully different from the allegations deemed insufficient in *Mandel*, where the plaintiff asserted that the visa was denied because of the alien’s advocacy of revolutionary Marxism and world communism, rather than his failure to comply with the terms of prior visas. 408 U.S. at 756; *see Din*, 135 S. Ct. at 2141-2142 (Kennedy, J., concurring) (endorsing *Mandel*). And here, the State asks the courts to take the extraordinary step of second-guessing a formal national-security judgment made by the President himself pursuant to broad grants of statutory authority.

² Washington relies on *Larson v. Valente*, 456 U.S. 228 (1982), but that holding is limited to cases where a government statute or practice “explicitly discriminates against a certain religious group.” *Sep. of Church & State Comm. v. City of Eugene*, 93 F.3d 617, 623 (9th Cir. 1996) (O’Scannlain, J., concurring).

ii. The State also argues (Response 14-18) that the order violates aliens' procedural due process rights. But as explained above, aliens outside the United States have no due process rights with respect to their attempt to gain entry into this country. And regardless, "notice and an opportunity to respond" is not required where, as here, the challenged rule reflects a categorical judgment. *Cf. Bi-Metallic Inv. Co. v. State Bd. Of Equalization*, 239 U.S. 441, 445 (1915) ("[w]here a rule of conduct applies to more than a few people," individuals affected do not "have a constitutional right to be heard before a matter can be decided"); *see also Din*, 135 S. Ct. at 2144 (Breyer, J., dissenting) (citing *Bi-Metallic*).

3. The State argues (Response 7-8) that the injunction does not impose any irreparable harm. But the injunction reinstates procedures that the President determined should be temporarily suspended in the interest of national security. Order § 1; *see also id.* § 2. The Order temporarily suspends entry of aliens from seven countries previously identified by Congress and the Executive Branch as raising heightened terrorism-related concerns. The suspension terminates in 90 days, once concerns relating to screening practices can be addressed, as necessary "to prevent infiltration [into this Nation] by foreign terrorists or criminals," Order § 3(c). Similarly, the temporary suspension of the U.S. refugee program will be lifted after 120 days, once the Secretaries of State and Homeland Security, in consultation with the Director of National Intelligence, determine "what additional

procedures should be taken to ensure that those approved for refugee admission do not pose a threat to the security and welfare of the United States.” Order § 5(a). The potential national-security risks and harms resulting from the compelled application of procedures that the President has determined must be reexamined, for the purpose of ensuring an adequate measure of protection for the Nation, cannot be undone.

Nor can the effect on our constitutional separation of powers.

4. Regardless of the plaintiff’s likelihood of success, the injunction court is, at a minimum, vastly overbroad. The State has made clear that it is seeking to protect LPRs and other nationals from the seven identified countries who were previously admitted to the United States and are either temporarily abroad or are here now and wish to travel outside this country—not aliens who are attempting to enter the country for the first time. *See Response 11-12, 15-16; Transcript 7-8, 15-16.* That makes sense because the latter class of aliens have no constitutional rights with respect to entry into the country—a point the State largely conceded below. *See Transcript 7, 15.* The injunction, however, bars *all* applications of Section 3(c)—even as to aliens who have never previously visited this country, and have not yet begun the process of obtaining a visa. It also bars all applications of Section 5, even though there is no indication that any of the aliens affected by the temporary

suspension of the refugee program have been previously admitted to this country.³ That is plainly impermissible. At most, the injunction should be limited to the class of individuals on whom the State's claims rest—previously admitted aliens who are temporarily abroad now or who wish to travel and return to the United States in the future.

³ Indeed, the district court even enjoined a provision that will not go into effect for 120 days, a provision as to which even plaintiffs conceded that their challenge is not ripe for review. Transcript 15 (Section 5(b) claim “does not necessarily require immediate injunction”).

CONCLUSION

For the foregoing reasons, defendants respectfully request a stay pending appeal of the district court's February 3, 2017 injunctive order.

Respectfully submitted,

/s/ Edwin S. Kneedler

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* The Acting Solicitor General and Acting Assistant Attorney General have refrained from signing this brief, out of an abundance of caution, in light of a last-minute filing of an amicus brief by their former law firm.

CERTIFICATE OF SERVICE

I hereby certify that on February 6, 2017, I filed the foregoing motion with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system. All participants in the case are registered CM/ECF users and will be served by the appellate CM/ECF system.

s/ Lowell V. Sturgill Jr.
Lowell V. Sturgill Jr.

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing Reply in Support of Emergency Motion for Stay Pending Appeal complies with the type-volume limitation of Fed. R. App. P. 27 because it contains 2,599 words. This Motion complies with the typeface and the type style requirements of Fed. R. App. P. 27 because this brief has been prepared in a proportionally spaced typeface using Word 14-point Times New Roman typeface.

s/ Lowell V. Sturgill Jr.
Lowell V. Sturgill Jr.

Shirk, Georgette L

From: Mura, Elizabeth E
Sent: Monday, February 06, 2017 1:53 PM
To: Picciotto, Giacomo A; Parikh, Reena
Cc: Busenkell, Kathleen R (Katie); Allred, Esther R
Subject: RE: Need clarification ASAP on "Guidance Concerning Executive Order on Immigration"

Giacomo,

I also confirmed I-881 adjudications should proceed.

Thanks,
Beth

Elizabeth E. Mura
Operations Branch Chief - Asylum Division
Refugee, Asylum and International Operations Directorate
Dept. of Homeland Security/U.S. Citizenship & Immigration Services

(b)(6)

From: Picciotto, Giacomo A
Sent: Monday, February 06, 2017 2:42 PM
To: Parikh, Reena
Cc: Busenkell, Kathleen R (Katie); Allred, Esther R; Mura, Elizabeth E
Subject: RE: Need clarification ASAP on "Guidance Concerning Executive Order on Immigration"

Thank you, Reena!

From: Parikh, Reena
Sent: Monday, February 06, 2017 2:40 PM
To: Picciotto, Giacomo A
Cc: Busenkell, Kathleen R (Katie); Allred, Esther R
Subject: RE: Need clarification ASAP on "Guidance Concerning Executive Order on Immigration"

Hi Giacomo,

NACARA 203 adjudications for persons in the U.S. should proceed.

Thanks,
Reena

From: Parikh, Reena
Sent: Monday, February 06, 2017 2:17 PM
To: Picciotto, Giacomo A
Cc: Busenkell, Kathleen R (Katie); Allred, Esther R
Subject: RE: Need clarification ASAP on "Guidance Concerning Executive Order on Immigration"

Giacomo,

We'll confirm with our leadership and get back to you asap.

Thanks,
Reena

From: Picciotto, Giacomo A
Sent: Monday, February 06, 2017 2:16 PM
To: Parikh, Reena
Cc: Busenkell, Kathleen R (Katie); Allred, Esther R
Subject: Need clarification ASAP on "Guidance Concerning Executive Order on Immigration"

Reena,

Can you please advise me if based on this attached memo asylum offices can continue to adjudicate applications filed for suspension of deportation and cancellation of removal under NACARA 203?

In the first enumerated paragraph, the first sentence indicates that the E.O. "does not affect USCIS adjudications of applications and petitions filed for or on behalf of individuals in the United States [...]"

As the I-881 if filed by persons who claim eligibility for NACARA 203, I'm not sure that it falls under the category of "applications [...] filed for or on behalf of individuals in the United States."

The last sentence of first paragraph ("this includes, but is not limited to [...]") does not clarify the question as it isn't clear to what "this" refers.

I need to advise all offices as soon as possible. Thank you for your help.

Giacomo A. Picciotto
HQ-Asylum Division – Operations
[REDACTED] (Mondays, Wednesdays, Fridays) (b)(6)
Tuesdays and Thursdays: by email or Skype only

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